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THESIS

**THE UNITED STATES DEPARTMENT OF HOMELAND
SECURITY CONCEPT OF REGIONALIZATION — WILL
IT SURVIVE THE TEST?**

by

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September 2006

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**THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY
CONCEPT OF REGIONALIZATION — WILL IT SURVIVE THE TEST?**

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ABSTRACT

The United States Department of Homeland Security has proposed that the nation's system of response to terrorism and catastrophic disasters would be more practical and efficient if handled on a regional basis throughout the country. Regionalization is one of three overall priorities under the National Preparedness Goal. The primary hypothesis is that there is a mismatch between the federal government's expectations of regionalization and the understanding of it by state and local governments. This lack of understanding will negatively impact the expenditure of federal funds in the future. The author proposes that there are six major reasons regionalization may fail and that a change of policy by the federal government will be necessary to increase the chance of success. The reasons include a lack of definition for regionalization; the impact of federalism; the influence of risk-based funding on local interest in regionalization; the impact of home rule and local autonomy; risk and liability questions; and the lack of leadership. Three options are considered, including maintaining the same program, creating a Regional Homeland Security Service Agency, and the Regional Council of Governments (RCG) approach.

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LIST OF ACRONYMS AND ABBREVIATION

CREPC	Capitol Region Emergency Planning Committee
CRCOG	Capitol Region Council of Governments
DHS	Department of Homeland Security
EMAC	Emergency Management Assistance Compact
FEMA	Federal Emergency Management Agency
FY	Fiscal Year
HSPD	Homeland Security Presidential Directive
MMRS	Metropolitan Medical Response System
NADO	National Association of Development Organizations
NARC	National Association of Regional Councils
NIMS	National Incident Management System
NRP	National Response Plan
PFO	Principal Federal Official
TCL	Target Capabilities List
UASI	Urban Area Security Initiative

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I. REGIONALIZATION — WILL IT SURVIVE THE TEST?

The United States Department of Homeland Security has proposed that the nation's system of response to terrorism and catastrophic disasters would be more practical and efficient if handled on a regional basis throughout the country. Regionalization is one of the three overall priorities under the National Preparedness Goal. The concept backed by official documents, funding decisions and strategy formulation makes regionalization a high stakes public policy. The primary hypothesis is there is a mismatch between the federal government's expectations of regionalization and the understanding of it by state and local governments. This lack of understanding will negatively impact the expenditure of federal funds in the future. The writer proposes that there are six major reasons regionalization may fail and that a change of policy by the federal government will be necessary to increase the chance of success at the local government level.

Thus far, the Department of Homeland Security has not put forth a clear definition of regionalization. Regionalization can be a somewhat meaningless term, often confused with and politically reduced to the same thing as consolidation. At the federal level, regionalization is usually considered to include whole states. Also, it is normally used in the context of how federal agencies structure themselves to deliver a service. As a result, this is a case where the federal government is attempting to tell local municipalities how to deliver their services. At the state level, regionalization may not be encouraged because the basic sub-state level of government is the county and many states have statutes that block regional efforts. Locally, regionalization escapes clarity because of conflicting views on any type of consolidation by labor, management and the public in general.

A. RESEARCH QUESTIONS

The definition of regionalization differs greatly depending on the locality or state. Finding a definition for "regionalization" at the federal level is sketchy and non-conclusive. At the core of the problem is the constitutional principal of Federalism, which by design, always impacts how state and federal decisions go together. How does Federalism fit with the Department of Homeland Security's emphasis on regionalization?

How will it affect the success of regionalization? Years of grant fund policy is being changed to accommodate the new risk-based funding distribution proposed by the 9/11 Commission and Congress. Will the change to risk-based funding influence local decisions to participate in regionalization efforts? Also, how do we account for the influence of risk to the local governments? Has anyone fully defined or vetted liability and workers compensation problems through the political process?

One of the primary challenges in regionalization involves the cultural aspect of local autonomy and home rule. It needs to be analyzed and factored into plans for success. Are we to assume that all localities and states will accept the risks and liabilities associated with regionalization without significant legal debate? Where will the leadership at a regional level emerge if political figures owe their election and authority to established jurisdictions and set boundaries? It is not apparent at the federal level whether this vital element has been investigated.

B. SPECIFIC RESEARCH OBJECTIVES

The purpose of this thesis is to examine previous state and local comparative lessons and the federal proposition as currently proposed, identify differences in their visions and plans, and compare arguments for and against regionalization proposals. The research is designed to offer alternative proposals for change and make a practical policy recommendation for success.

C. SIGNIFICANCE OF THE RESEARCH

Across the nation, local and state officials await guidance from the Department of Homeland Security on how to institute or make the regionalization concept work for their jurisdictions. This thesis will review and enhance the awareness of the problem, explain common factors that signal failure and conversely can be countered for success, lend maturity to the national debate, and offer an analysis of several alternatives and a proposed solution. The research will suggest guidance on a practical policy issue that affects every community in the United States.

D. REVIEW OF RELEVANT LITERATURE

The concept of regionalization as proposed by the Department of Homeland Security is relatively new and the depth of documentation and data analysis is limited.

While schools of thought are developing around broad public policy, sub-issues such as regionalization must rely on associated data developed under different contexts.

The literature review in this thesis is built around three broad areas, beginning with federal documents that set the stage for controversy over the lack of a clear definition, the impact of federalism and risk-based funding distribution on the concept of regionalization. Next, a series of state documents will be used to explain in general an individual state's focus including restrictions on the application of regionalization and the impact of home rule. Finally, a third group of leadership, current governmental affairs, and commentary type documents will be used to round out the analysis concerning local autonomy and the lack of leadership at the regional level.

Beginning with the question of definition, the federal government is sending mixed messages. The National Strategy for Homeland Security is silent on the definition of a region.¹ However, it is a strong statement endorsing the need for collaboration and mutual support at all levels of government. The Interim National Preparedness Goal Homeland Security Presidential Directive 8: National Preparedness, issued in March 2005, states that “as used in this document, “region” generally refers to a geographic area consisting of contiguous state, local, and tribal entities located in whole or in part within a designated planning radius of a core high threat urban area.”²

In July, 2005, further guidance was issued in the urban area strategy which states “the goal does not mandate that state and local governments adopt a regional governmental structure, but it does require that all levels of government embrace a regional approach to building capacities.”³ Additionally, expanded regional collaboration is an overarching priority that contributes to the development of all 36 identified capabilities in the Target Capabilities Listing, still without reference to what regional means.⁴

¹ Department of Homeland Security, *National Strategy for Homeland Security* (Washington, D.C.: Government Printing Office, July 2002).

² U. S. President, “Interim National Preparedness Goal,” *Homeland Security Presidential Directive/HSPD-8: National Preparedness* (Washington, D.C.: GPO, March 2005), 11.

³ Department of Homeland Security, *State and Urban Area Homeland Security Strategy – Guidance on Aligning Strategies with the National Preparedness Goal* (Washington, D.C.: GPO, July 2005), 9.

⁴ Department of Homeland Security, *Target Capabilities List*, Version 2.0 (Washington, D.C.: GPO, August 22, 2005).

Homeland Security Presidential Directive 8: National Preparedness gives further guidance by stating that “the effects of major events and the associated required capabilities necessary to prevent and respond to such events should drive the size and jurisdictional makeup of the sub-state region.”⁵

The draft National Infrastructure Protection Plan makes the statement “virtually all regional efforts are initiated locally without top-down mandate.”⁶ This statement seems to recognize the motivation for success, while at the same time continuing to pass on giving a clear definition of regionalization to local governments.⁷

The 109th Congress is also dealing with the question of regionalization. Here again, the issue is not about definition, but rather a question of how the absence of a unified set of regional offices within the Department of Homeland Security could complicate efforts to implement the National Response Plan should a massive catastrophe occur.⁸ The issue specifically deals with “to what extent have DHS officials considered how state, local, and tribal organizations will implement the National Response Plan while the regional office framework is being developed?”⁹

The one exception to the lack of definition appears to be the Department of Homeland Security insistence on defining the designated Urban Area Security Initiative (UASI) regions, with all other determination of sub-state regionalization left to the discretion of the States.

The distribution of federal funds by a risk-based process potentially stands to be a major influence on the success of the regionalization initiative. Starting with Fiscal Year 2006, the federal government has already begun to distribute funds based on a pre-

⁵ HSPD 8, 21.

⁶ Department of Homeland Security, *Draft National Infrastructure Protection Plan* (Washington, D.C.: GPO, 2005), 53.

⁷ DHS, *National Strategy*, xiii. Local government is defined as “any county, city, village, town, district, or other political subdivision of any state, any Native American tribe or authorized tribal organization, or Alaska native village or organization, and includes any rural community or unincorporated town or village or any other public entity for which an application for assistance is made by a state or political subdivision thereof.”

⁸ Department of Homeland Security, *National Response Plan* (Washington, D.C.: GPO, 2004).

⁹ Congressional Research Service, *The National Preparedness System: Issues in the 109th Congress* (Washington, D.C., Library of Congress, January 19, 2006), 26.

determined set of risk evaluation factors. Initial guidance mandates the state administrative agent formulate the grant requests and investment justification and even though collaboration is not required, in many cases there was extensive collaboration of state and local governments. The competitive nature of large metropolitan areas will garner the bulk of funding. The realization by small communities that their terrorist threat is considered low by the insignificant funding provided may also undermine the value of regional efforts.

Assuming the federal government can define regionalization and determine how to distribute funds based on risk, what influence does the state government have on the concept of regionalization? Regionalization has been tried with various degrees of success in most states. However, reality and practical application play a huge role. Even the federal government admits that “Historically, the American governance system, divided into federal, state and local jurisdictions, does not provide a natural vehicle for discussing public policy issues from a regional, multi-jurisdictional perspective. The autonomy of local jurisdictions and competing priorities within and among them makes regional coordination difficult.”¹⁰

States consistently use a top-down policy approach and this fact coupled with the trappings of federalism is evident in the federal approach to homeland security regionalization. With the ability to designate the regions within their respective state, regions were formed that immediately received political pushback. States like Florida and others for example, discovered that locals object to the one-size-fits-all approach.¹¹

Most states are caught in cross-purposes. In order to receive federal homeland security funding (by any method of distribution), states are required to establish regions at their own discretion. In many cases this brings up the old argument about home rule, such as in Massachusetts where there is little sense that boundaries of a region define a community of shared interest.¹² Community of shared interest is used here in a broad

¹⁰ House Committee on Government Reform, *Homeland Security: Effective Regional Coordination Can Enhance Emergency Preparedness*. Document # GAO-04-1009 (Washington, D.C.: Homeland Security, September 2004), 28.

¹¹ Urban Land Institute, *Building Florida's Future – State Strategies for Regional Cooperation* (Washington, D.C.: ULI-the Urban Land Institute, 2005), 7.

social science sense to mean a commonality of experience in the daily lives of citizens. For example, the Tampa-St. Petersburg, Florida, area shares a community of interest in governmental planning, colleges, business and economic development, transportation systems, and media coverage. Including Tampa in an area with Lakeland or Orlando, Florida, would be counter productive. In many cases, regional cooperation is automatically equated with giving up control and power.

A significant number of states, including some without county governments, rely on legislatively established regional planning offices or council of governments.¹³ While seemingly a logical step towards establishing regional collaboration, a major blocking factor exists in the form of missing formal decision-making structures. The level of coordination between local government and first responder groups remains a barrier to regional planning efforts, according to a recent National Association of Development Organizations survey.¹⁴ Also, “Except in rare instances, regions have no policy, no governing body, no chief executive, and no by-laws.”¹⁵

Even though home rule is often considered more myth than fact, it is still a factor to be reckoned with. Home rule or “Dillon’s Rule” is a little known judicial doctrine named for a 19th century Iowa Supreme Court Justice that state laws allow localities to possess only such powers as are specifically delegated to them by state law. New Jersey has traditionally boasted its home rule orientation and citizens generally believe that forced regionalization can be construed as taking away local accountability.¹⁶

The third group of documents to be studied will analyze local autonomy, risk and liability issues and the question of leadership at the local level. Challenges to regionalization will be most vocal at the local level, as “Americans like the idea of small,

¹² David Barron and Gerald Frug, *Dispelling the Myth of Home Rule – Local Power in Greater Boston* (Cambridge, MA: Rappaport Institute for Greater Boston, 2004), 72.

¹³ National Association of Development Organizations, State Associations of Regional Councils of Government and Regional Development Organizations.

¹⁴ National Association of Development Organizations, *Regional Approaches to Homeland Security Planning and Preparedness – Survey of the Nation’s Regional Development Organization* (Washington, D.C.: NADO, August, 2005), 7.

¹⁵ Katherine Foster, *Smart Governance, Smart Growth* (Buffalo, N.Y.: Lincoln Institute of Land Policy, LILP-Product Code: CP00A02. 2000), 3.

¹⁶ New Jersey Task Force on School District Regionalization. *Findings and Recommendations* (Trenton, N.J.: State Printing Office, 1999).

accessible, responsive local governments and have not been quick to embrace larger governing bodies.”¹⁷

Turning back to the confusion over the term regionalization and how it is easy to misinterpret as consolidation by another name, the federal government may not have considered the leadership required to sell the concept in certain states. Union resistance is a given and any leader considering regionalization should analyze the impact of collective bargaining. In many states, unions are a powerful force and any action that may alter working conditions must be handled in a methodical manner. Also, collaboration results need to be assessed because any loss in efficiency due to political, institutional and technical pressures diminishes public value.¹⁸

E. HYPOTHESIS

As stated on page one, the primary hypothesis is there is a mismatch between the federal government’s expectations of regionalization and the understanding of it by state and local governments. This lack of understanding will negatively impact the expenditure of federal funds in the future. Three alternative proposals will be offered for implementing the regionalization concept, as well as the expected outcome for each based on external and internal influences. A proposed solution will be recommended. Regionalization of homeland security efforts in the United States can succeed if based on clear definitions, solid leadership and a system that allows input into the decision making process from the regional level.

F. METHODOLOGY AND SOURCES

The methodology in this research will include a comparative analysis of the regionalization issue through a review of various efforts of state, county and local governments to accomplish some degree of regionalization. These comparisons will produce the mitigating factors that influence the degree of success, or lack thereof, of regionalization efforts. Additionally, research of successful and failed regionalization case studies will be used as supporting evidence of the main claim. Benchmarks for

¹⁷ National Cooperative Highway Research Program, *Building Effective Relationships between Central Cities and Regional, State, and Federal Agencies – A Synthesis of Highway Practice* (Washington, D. C.: National Academy Press, 2001), 8.

¹⁸ Robert Agranoff, “A New Look at the Value-Adding Functions of Intergovernmental Networks,” *Paper prepared for the Seventh National Public Management Research Conference at Georgetown University* (Bloomfield, IN.: Indiana University, October 9, 2003), 2.

measuring success or failure are not fully determined by the general literature on the subject. However, continuation or cessation of various government initiatives should yield realistic indicators. Research will include comments from officials who support and oppose regionalization, applicable statistical data and comparative analysis methodology to develop a proposed solution or policy adjustment.

The multiple initiatives used in the comparative analysis will include successful cases that illustrate the political reality, human nature and common goals needed for a positive experience, as well as failures that represent negative experiences.

G. THESIS STRUCTURE

This thesis is organized into eight chapters. Chapter I explains the problem, provides background on its significance to the Department of Homeland Security, and the structure of the thesis. Chapter II begins the discussion on federalism and why it could be a significant issue in the potential failure of the regionalization concept. This chapter also deals with the changing responder roles and the emerging network approach to homeland security.

Chapter III points out the Department of Homeland Security's oversight in defining the term regionalization, the difficulty it is having, and the problems it is causing state and local governments. This chapter gives the federal perspective, discusses third party government, and introduces the regional networking perspective. Chapter IV explores a third potential failure point concerning regionalization, local autonomy and home rule. In this chapter home rule is discussed and the chapter touches on the impact of internal forces such as organized labor and leader weakness, including the vagaries of egos. Chapter V explains how the failure to accept the increasing risk related issues involved in regionalization can influence success.

Chapter VI begins the analysis of risk-based funding distribution and the decisional elements that it drives. Elements such as power, distribution problems, the filter of state administrative agents and risk-based perception versus reality are analyzed. Chapter VII explains the sixth reason that regionalization could fail. The chapter deals with the leadership requirements at the regional level to accomplish the objectives of the DHS mandates. The required nature and model of leadership are discussed and the

regional leadership weaknesses are explained. DHS is sending mixed signals in the area of leadership and the politics of the issue are captured in the research.

Chapter VIII deals with three alternatives the author feels should be reviewed in addressing the potential problem. It also provides a recommendation and provides a conclusion for the thesis.

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II. IT BEGINS WITH FEDERALISM

Perhaps no other issue has the potential to impact the success of “regionalization” more than federalism. Federalism, the basis of the American system of government, is often overlooked for the powerful political force it is. It is not clear how much, if any, study or research on federalism the Department of Homeland Security used to influence its regionalization decision. How obvious is this? Think of the complicated and questionable emergency response to Hurricane Katrina.

The federal government seemed stymied on a number of fronts. The televised coverage of intergovernmental debate clearly exhibited the concept of federalism. The nation watched as President George W. Bush tried to convince Governor Kathleen Blanco to allow the federalization of Louisiana National Guard troops. While entertaining to a degree and scary to many viewers, it’s easy to forget “the founding fathers created a constitutional framework in which each state, upon ratification of the Constitution, ceded some of its powers to the federal government to create a limited central government.”¹⁹ But, the states did not relinquish control of their militias. Additionally, it was tempting to argue that the federal government should just do something. Here again, the Constitution also respects state powers by reserving those powers not given to the federal government to the States or to the people.²⁰ Following these principles, the founding fathers created the federal government to do those things that States cannot or should not do individually, such as defending the nation, conducting foreign relations, and ensuring open and free interstate commerce.²¹

Additionally, both the Insurrection Act and the Robert T. Stafford Act require the state to make the initial request for help before the President would authorize assistance to restore order or help with a major disaster. The Stafford Act has a straight forward

¹⁹ James Madison, “The Alleged Danger from the Powers of the Union to the State Governments Considered,” *The Federalist* 45 (Philadelphia, PA.: Publius, January 26, 1788), 308-14: “The powers delegated by the proposed Constitution to the Federal government, are few and defined. Those which are to remain in the State governments are numerous and indefinite.”

²⁰ United States Constitution, Amendment 10.

²¹ United States Constitution, Article 1, section 8; Article 2, section 2.

requirement that is clearly understood by most governors.²² The Insurrection Act has two additional sections that allow the President to take independent action where it becomes necessary to enforce federal laws, Constitutional rights and judicial decisions.²³

A. NEW FEDERAL INITIATIVES

Two recent federal initiatives also exert significant influence. Developed under the guidance of the Department of Homeland Security, the National Incident Management System (NIMS) and the National Response Plan (NRP) enforce the concepts of incident management at the lowest level and the federal government playing a support role. “The National Incident Management System establishes standardized incident management protocols and procedures that all responders – federal, state, and local – should use to conduct and coordinate response actions. It sets forth a core set of doctrine, concepts, principles, terminology and organizational processes to enable effective, efficient, and collaborative incident management at all levels of government.”²⁴

The National Response Plan is based on the traditions and customs that have developed under American federalism and is built on the premise that incidents are generally handled at the lowest jurisdictional level possible.²⁵ It is significant that the new plan is called “National” instead of “Federal” because it symbolizes the combined efforts of local, state and federal resources. In reality, it is often overlooked that the National Response Plan only deals with the mobilization and utilization of federal resources.

State responsibilities are increasing due to federalism and the federal maneuver to use the Target Capabilities List to set standards and increase responsibilities for a higher level of response by emergency agencies. Some researchers believe governance can only be effectively achieved in the future by regions sharing power.²⁶ This is based on the belief that massive resources remain unused at the local government level and the best

²² U. S. Congress, *The Robert T. Stafford Disaster Relief and Emergency Assistance Act*, Pub. L. No. 93-288, section 5170 and section 5191 (amended June 2006).

²³ 10 United States Code, section 332 and 333 (2005).

²⁴ Department of Homeland Security, *National Incident Management System* (Washington, D.C.: GPO, March 1, 2004), ix.

²⁵ DHS, *National Response Plan*, 15.

²⁶ Jan Grell and Gary Gappert, “The Future of Governance in the United States: 1992-2002,” *The Annals of the American Academy of Political and Social Sciences* (New York, N.Y.: Sage Publications, July 1992), 77.

way to harness them is to create intrastate regions and empower them to act outside their home jurisdictions. Further reinforcement of the federalism concept is supplied by the 1990's creation of the Emergency Management Assistance Compact (EMAC), which allows States to assist each other before asking for assistance under the Stafford Act.²⁷ Any system that strengthens the state's ability to operate in-state or between states without having to involve the federal government will ultimately increase the concept of federalism. Incidentally, an EMAC request is not a requirement before federal help can be obtained, but it is encouraged.

B. FEDERALISM AS AN ISSUE

The issue of federalism over shadows the question of defining regionalization because the Department of Homeland Security knows it would receive immediate political pushback from the states and would fail if it just announced what the regions would be within each state. With the exception of the designated Urban Area Security Initiative (UASI) regions, which are determined by the Department of Homeland Security, all other determination of sub-state regionalization is left to the discretion of the States. States such as California, New York and Missouri would argue however, that the naming of major metropolitan areas as UASI regions is an attempt by the federal government to interfere in the determination of appropriate regions within each state. And ironically, changing and re-designating UASI regions has proven a very contentious political point in the affected states. Examples of this occurred in Las Vegas, Nevada, which lost its designation as a UASI region and Oakland, California, which was once a stand alone UASI region and is now combined with other major cities in the San Francisco Bay area. In both cases, the DHS decision withstood local, state and congressional political pressure to change back to more favorable local conditions.

Federalism is a major obstacle to the concept of regionalization. The combinations of forces that create the obstacles are interchangeable and often deep-seated and include the following factors.

States consistently use a top-down policy approach and this fact coupled with the trappings of federalism is evident in the federal approach to homeland security

²⁷ U. S. Congress, *Emergency Management Assistance Compact*, Public Law 104-321, (October 19, 1996).

regionalization. With the ability to designate the regions within their respective state, regions were formed that immediately received political pushback. States like Florida for example, discovered that locals object to the one-size-fits-all approach.²⁸ Florida weathered many problems with the concept of regionalization, but still experiences difficulty for example with watershed issues on Lake Okeechobie and the Everglades. Several other states experienced heated debate about how regions were to be formed and what community of interest (described in Chapter 1) would be used as the basis the decision. Connecticut, for example, went through a series of stakeholder meetings over a period of six months just to decide what the regions in the state would look like. The original recommendations of the committee were politically altered several times until the State Emergency Management and Homeland Security Coordinating Council declared a moratorium on further changes for one year.²⁹ Still missing in the equation is the Connecticut State-wide Fire Mutual Aid Plan, which has only three regions and the Regional Planning Organizations and Councils of Government, which number fifteen.

C. MIXED SIGNALS

The National Response Plan includes a Catastrophic Incident Annex which “establishes the context and overarching strategy for implementing and coordinating an accelerated, proactive national response to a catastrophic incident.”³⁰ The plan allows for the federal government to change from the “pull” system (help called for under the Stafford Act by the Governor) currently in place by statute, to a “push” system (DHS decides what a state needs and sends it regardless of a request by the state) as a way to circumvent the inconvenience of federalism.

Continuing to confuse the debate is the fact that under the National Response Plan the Principal Federal Officer (PFO) does not direct or replace the incident command structure established at the incident, nor does the PFO have directive authority over the federal coordinating officer, or other federal and state officials.³¹

²⁸ Urban Land Institute, *Building Florida's Future*, 7.

²⁹ Hartford, CT, *Coordinating Council Meeting Minutes for February 9, 2006* (Department of Emergency Management and Homeland Security, 2006).

³⁰ DHS, *National Response Plan*, Catastrophic Incident Annex, CAT-1.

³¹ *Ibid.*, 33.

Additionally, a key overarching national priority is expanding regional collaboration.³² The concept, which advocates a regional approach, allows regions to coordinate planning and protection, spread costs and share risk. It also ignores the concept of federalism. In fact, you don't find any federal language that starts to recognize federalism until you read the UASI instructional manual, which says, "The goal does not mandate that state and local governments adopt a regional governmental structure, but it does require that all levels of government embrace a regional approach to building capabilities."³³ While silent on the issue of federalism, the strength behind the requirement is obviously its ability to lead through federal funding requirements and by supplying specialized federal resources during disasters.

Another federal document that impacts on the concept of federalism is Homeland Security Presidential Directive-5. Under this directive it is possible for the federal government to respond in a "proactive" manner and handle an incident without approval of the state government. In accordance with HSPD-5, there are four conditions that can trigger the National Response Plan. These conditions are:

- A federal department acting under its own authority asks for help;
- State and local authorities are overwhelmed and ask for help;
- More than one federal department is substantially involved in the incident; or
- The Secretary has been directed to assume responsibility for managing the domestic incident by the President.³⁴

One could argue all four of these conditions were met during Hurricane Katrina and it didn't help the situation or speed up the decision making process. Hurricane Katrina seems to offer dramatic proof that the federal government is not and should not be the Nation's first responder. The President actually declared Katrina an "incident of national significance" on August 27, 2005, days before it touched the Gulf Coast, and the outcome was chaos. President Bush and Louisiana Governor Kathleen Blanco debated the federalization of state National Guard troops for two days and in the end the

³² HSPD-8, "National Preparedness," 11.

³³ Department of Homeland Security, *State and Urban Area Homeland Security Strategy – Guidance on Aligning Strategies with the National Preparedness Goal* (Washington, D.C.: GPO, July 22, 2005).

³⁴ U. S. President, *Homeland Security Presidential Directive/HSPD-5* (Washington, D.C.: GPO, February 2003), Section 4.

resolution was the swearing in of a three-star general into the National Guard to give him power in the state. The National Guard forces were never federalized and an active duty general joined the guard. It reinforces the fact that federalism always comes into play in major disasters.

D. CHANGING RESPONDER ROLES

Have responder roles changed due to federalism or become any clearer since Katrina? It seems like every organization in existence has studied the response to the storm and issued their perspective on success or failure. Within days senior officials at all levels of government retired, were reassigned or were terminated. The President began to publicly advocate for a stronger more prominent role for the United States Military. The military in turn developed anxiety over the potential changing role and its impact on their main battle mission. Once again in the halls of Congress, governmental offices, and in the streets, the debate over the proper role of the federal government began anew. Homeland Security Secretary Michael Chertoff seemed to differ with the President also. “Chertoff emphasized that the federal government would not supplant state and local emergency responders on the front line of a disaster and that their proper role was in support.”³⁵ Regardless of the flow and direction of the debate, nothing significant will change until the underlying issue of federalism has been addressed. Totally missed by investigators was the success or failure of Emergency Management Assistance Compact (EMAC) activities. For such an important concept, investigators should ask how their response compared to any other organization. EMAC, by the way, is not even mentioned in the National Response Plan. Is this because it adds a fourth tier to the emergency management response system in the United States and delays the need for federal response? Is it because it is not considered as a part of the disaster response system at the federal level? Or could it be because it conflicts with the DHS goal of establishing multi-state regions across the nation?

³⁵ Chris Strohm, “Chertoff vows feds won’t supersede local responders,” *Congress Daily* (March 20, 2006). http://www.govexec.com/story_page.cfm?articleid=33640&printerfriendlyVers=1& (Accessed on March 21, 2006).

E. WHY REGIONALIZE?

Even with uncertainty about the impact of federalism and the missing definition of regionalization, the federal government seems fascinated with the concept. At the federal level, regionalization is usually considered to include whole states. Also, it is normally used in the context of how federal agencies structure themselves to deliver a service. Instead, the homeland security application is a case where the federal government is attempting to tell local municipalities how to deliver their service. Why the effort to get around federalism? Is it because regions have worked so well in the past?

For example, policy leaders at the federal, state and local levels have closely monitored programs such as the Appalachian Regional Commission (ARC) and consistently cite the 13-state commission as the premier example for a successful regional approach.³⁶ This model is touted because it facilitates a “bottom-up” approach where local development districts and others bring ideas to the commission from the local level.³⁷ This illustration along with the experience with FEMA regions appears to be part of the thought process concerning homeland security regionalization. In addition, the model is thought to help in implementing collaboration within a sub-state region. But, once again, the argument leads to the realization that there is an absence of local input in the decision. Being allowed to present your ideas to a commission is not the same thing as being involved in the decision making process.

The homeland security mission requires a national effort – federal, state, and local governments partnering together and with the private sector. It is critical that we identify tasks that are most efficiently accomplished at the federal versus local or regional level.³⁸ Regionalization is suppose to be all about emergency service delivery. The mission starts with local response capability and must include private sector elements and non-governmental organizations.

³⁶ National Association of Development Organizations Research Foundation, *Federal State Regional Commissions: Regional Approaches for Local Economic Development* (Washington, D.C.: NADO, April 2003), 3.

³⁷ Local Development Districts are know as regional development organizations and locally as economic development districts, councils of governments, regional planning councils, planning and development districts and area development districts.

³⁸ DHS, *National Strategy*, 64.

While Federalism is a means of taking regional differences (cultural or other) into account by granting extensive political autonomy, regionalization is very different in institutional terms. First, it is always asymmetrical, whereas states have equal status by the Constitution, regions by any definition will lack peer status and be much more culturally distinct. Second, the federal government participates with the states to exercise certain responsibilities at the state level. There is no provision at the federal level to directly involve itself in state defined regions. Regions within a state are not necessary state authorities, usually have no state power and generally do not exercise any state responsibilities at the federal level.³⁹ It would be wise for the federal government to study the cultural differences implicit in the proposed regions and analyze the potential impact of any federal direction or regulations. Cultural difference in the nation's regions is not a concept that is easily understood or accepted by Homeland Security.

Additionally, local control is a politically sacred idea. For example, regionalization causes a lot of fear of losing decision-making power and influence. Local, tribal and state authorities still maintain certain parochial attitudes and embrace the concept of sharing resources when it benefits their individual interests. These independent attitudes will continue to block cooperative efforts to achieve common goals.⁴⁰

F. A POSSIBLE NEW APPROACH

Federalism has long been the guiding principle for allocating responsibilities to meet the needs of citizens after disasters. Remaining committed to a federalist approach is not just being a slave to tradition. It is a precedent based on practicality and experience. Both scientific research on disaster response and an analysis of recent emergencies argue that it is still the right approach.⁴¹

But, many experts believe a dramatic change to federalism is needed. Henry Cisneros, former Secretary of Housing and Urban Development during the Clinton

³⁹ Claudia Pamfil, *Evolving intergovernmental relations for effective Development in the Context of Regionalization* (New York, NY: Open Society Institute, November 2003), 23.

⁴⁰ Susan K. Reinertson, *Resource Sharing: Building Collaboration for Regionalization*, Naval Postgraduate School (Monterey, California, September 2005), 9.

⁴¹ James J. Carafano, "Learning from Disaster: The Role of Federalism and the Importance of Grassroots Response," *The Heritage Foundation, Backgrounder #1923* (Washington, D.C.: Heritage Foundation Press, March 21, 2006), 1.

administration, says “the intergovernmental partnership that has defined American governance for most of the nation’s history is unraveling. Our nation is unsettled. It has come through a series of transformations but hasn’t settled on a model for intergovernmental relations.”⁴²

Intergovernmental relations structures should be viewed as overlapping networks serving diverse functions. Conceptualizing intergovernmental relations by using network theory means that the system should be based on linkages and interrelationships, rather than hierarchical layers. Network thinking, rather than the standard notions of federalism, will promote the Department of Homeland Security’s flexibility and adaptability.⁴³

⁴² National League of Cities, “Is the Federal-State-Local Partnership Being Dismantled? Roundtable Proceedings,” *Research Report on America’s Cities*, National League of Cities (Washington, D.C.: NLC Press, 2003), iii.

⁴³ National Academy of Public Administration, *Advancing the Management of Homeland Security: Managing Intergovernmental Relations for Homeland Security* (Washington, D.C., NAPA, February 2004), 10.

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III. REGIONALIZATION — WHAT’S IN A NAME

One of the first problems with the federal mandate called regionalization is what the word really means. How do you define regionalization? Are we going by the federal definition, whatever that is, or is there another definition that will makes more sense to state and local governments? Whatever it is, does anyone at any level really understand it? And even if we don’t know the definition, there is a pretty strong argument in favor of regionalization when you study past events in the United States. The term itself implies that a defined number of governments are coming together for the greater good of the public. Are these governments at the state level? Are they counties? Regionalization at some level provides the opportunity to use mutual aid resources and deploy response assets that a single municipality acting alone may not even know exist. Arguably it provides a more effective and efficient use of resources, but it defies the human nature of the local government culture.

These questions and many others require some official guidance. The first responders and planners of the world require a little clarification in order to proceed. This is no small task. You only have to look at the federal confusion to begin to see the problem.

A. FEDERAL PERSPECTIVE

The Department of Homeland Security loosely applies the concept of regionalization to any multi-state activity, such as the National Capitol Region or the current Federal Emergency Management Agency (FEMA) Regions. Yet, they also use regionalization to explain the Urban Area Security Initiative (UASI) grant program, which normally involves multiple municipalities within a given state. Not to be out done, the U. S. Department of Health and Human Services provided funding to states to form Bioterrorism regions. These regions do not usually correspond to any other agency boundaries.

There are many conflicting signals on the definition of regionalization. The Metropolitan Medical Response System (MMRS), the Cities Readiness Initiative (CRI) and even the UASI guidance say regional but focus on local municipalities. It wasn’t

until the FY06 funding guidance that UASI forced the true regionalization concept by focusing on risk-based funding. This guidance forced cities like New York to realize that the limited funding was intended for a larger area than just the city.

The various states are left to their own definition of regional boundaries as demonstrated across the nation. In many cases, the local governments themselves have absolutely no use for the term regionalization because of the negative connotation and similarity with the contentious issue of consolidation.

The emphasis on regionalization as a priority without clear definition creates a certain degree of confusion in the funding recommendations and in many cases is counter productive to the Department of Homeland Security overarching goal of expanded regionalization. For example, according to one study, without clearer definitions the influx of new money reinforces existing divisions between state, federal and local health agencies in the United States, actually making the nation less prepared.⁴⁴ Even the feds have a problem with regionalization. “The boundaries of their regional offices rarely coincide and former House of Representatives majority leader Dick Armey, R-Texas, said Homeland Security’s bid to integrate the offices is likely to run up against “parochialism” and tenacious “civic relationships.”⁴⁵

While there may be agreement that we need a different form of organization to make homeland security a success, it is also clear that no one has the answer. “We do know the question of collaborative enterprise pervades our society generally today. The issue arises in industry, government, defense and academe. We all face challenges of limited resources and large-scale initiatives.”⁴⁶

Regardless of who ultimately decides the definition of regionalization, however, the federal government is moving ahead with increased funding pressure for states to

⁴⁴ The Century Foundation, *Breathing Easier? Report of the Century Foundation Working Group on Bioterrorism Preparedness* (New York, N.Y: Century Foundation Press, 2004), 2.

⁴⁵ Joe Fiorill, “Homeland Security bid to set up regional structure could hit roadblocks,” *GovExec.com Daily Briefing* (October 6, 2004). Accessed at www.govexec.com/story_page.cfm?articleid=29645&printerfriendlyvers=1 on June 24, 2006.

⁴⁶ Louis Pacheco, “A Strategy for SE Massachusetts Region 5 Homeland Security and Public Safety Funding for a Secure, High-Speed Public Safety Network Providing Interoperability of Voice, Video and Information,” *Inform South East Homeland Security Strategy* (Boston, MA.: www.region5mass.com, July 26, 2004), 17.

regionalize. Either naturally or by force, the intent of the federal government is to have an intrastate system that works. The federal government position is that “Expanded Regional Collaboration” is an overarching priority that contributes to the development of all 36 capabilities in the Target Capabilities List. It also supports the development of a seamless, national network of mutually-supporting capabilities to prevent, protect against, respond to, and recover from the full spectrum of threats and hazards. The federal government understands that each state has unique regional traditions, geographic features, and political realities that will influence how it organizes into regions at the sub-state level.⁴⁷

Perhaps DHS realized the anxiety involved in setting up such a system. DHS officials have, for years, struggled to establish a network of regional offices for the department. Many openly question whether successful regional collaboration can be achieved without the development of a DHS regional system.⁴⁸ Think tanks such as the Heritage Foundation have conducted in-depth research into the subject of regionalization as it pertains to multiple state activities and the value of adding a fourth tier to the three-tier national emergency response system. In their report *Empowering America: A Proposal for Enhancing Regional Preparedness (Special Report #06, April 7, 2006)* the Heritage authors suggested that regional offices were needed and should not have policymaking or grant-making authority. Heritage sees the relationship under their proposal as one of partnership with state, local and private organizations in the region to identify critical gaps in preparedness.

Further complicating the situation is the reality that “historically, the American governance system, divided into federal, state and local jurisdictions, does not provide a natural vehicle for discussing public policy issues from a regional, multi-jurisdictional perspective. The autonomy of local jurisdictions and competing priorities within and among them makes regional coordination difficult.”⁴⁹

⁴⁷ HSPD-8, 19-20.

⁴⁸ Congressional Research Service, *The National Preparedness System: Issues for the 109th Congress* (Washington, D.C.: Library of Congress, January 19, 2006), 5.

⁴⁹ *Homeland Security: Effective Regional Coordination Can Enhance Emergency Preparedness*, 2004, 17.

B. THIRD PARTY GOVERNMENT

The National Capitol Area is a unique experiment in the concept of regionalization. The operational, administrative and governance issues are gigantic. The member organizations are the first to acknowledge that the regional makeup doesn't lend itself to coordinated planning. Getting two states, the District of Columbia, a host of jurisdictions, nearly three dozen police departments, Capitol Hill, the executive branch and an independent judiciary to come together and produce a consensus plan is harder than herding cats.⁵⁰ But, the driving force in the National Capitol Area is the Metropolitan Washington Council of Governments (MWCOG). The special thing about MWCOG is that it involved first responders in its public safety initiatives from the very beginning. A collaborative atmosphere was a founding principle and especially after the Air Florida crash on January 13, 1982, which occurred at the same time a major snow storm and subway disaster were taking place. These events forced everyone to realize the value of inclusiveness for emergency responders and that a regional system was extremely helpful in major events.

The problem with regionalization is more than one of power and control. "Third party government also raises fundamental problems of information asymmetry: the states, localities and private parties that must address issues such as homeland security may have much more sophisticated understanding of many of the critical facts that the federal government must know in order to do its job well."⁵¹ So, is it possible to have real success when you just leave it to those involved to work out all the details?

The uncertainty of future terrorist attacks and the need for speed in providing for the defense of the nation are understandable in the macro sense. But, behind the concept of regionalization are the basic elements of involvement in the decision making process, developing relationships, and learning each other's strengths and weaknesses. These elements are all benefits of regionalization if the concept is collaborative. The hierarchical model of federal administration involves the imposition of rules, often on the basis of limited consultation with the affected parties. This is unlikely to be effective in

⁵⁰ "Our Unprotected Region," *Washington Post*, Editorial Comment, April 3, 2006.

⁵¹ National Academy of Public Administration, *Improving Federal Relations with States, Localities, and Private Organizations on Matters of Homeland Security: The Stakeholder Council Model* (Washington, D.C.: NAPA, March 2003), 2.

dealing with complex problems, such as many of the aspects of homeland security that call for management of organizational networks. However, several examples of workable solutions exist. For instance, the stakeholder council model provides a forum and a process for bringing many different stakeholders together jointly to develop solutions in defined areas of federal concern.⁵²

C. REGIONAL NETWORKING PERSPECTIVE

Based on the array of interpretations, neither the federal or state governments seem sure of the definition of regionalization. In reality however, the definition should focus on the collaboration of the various networks that interrelate on a daily basis. While different methods exist to help in collaborating, at least one method, the co-evolutionary approach does not require developing any new implementation strategy. Instead, it represents taking the blinders away to see what is actually happening – networks are organizing homeland security, not hierarchies – and then cooperating with the reality of how things happen, rather than remaining faithful to an ideal about controlling complexity.⁵³

Networks vary in nature and purpose, but many are held together by a nonhierarchical self-organizing process accompanied by an evolving mutual obligation among the players. Networks by nature can work horizontally among peers and vertically among the various layers of government.

Never the less, “networks tend to involve large numbers of stakeholders, many of whom have quite opposite views, who come together to exchange information, examine the depths of a given problem, and explore “possible actions” that stakeholders might take. Some informational networks never make a decision, while others called “action” networks involve partners who formally adopt collaborative courses of action and/or

⁵² *Improving Federal Relations*, 2. The “Stakeholder Council Model” is based on years of experience with standard-setting groups in many sectors of the economy. The particular antecedent of most relevance is the NACHA EBT (i.e., Electronic Benefits Transfer) Council, 3. This model presents an alternative approach that, while potentially more time-consuming in the deliberative phase, may allow for the development of more effective and comprehensive solutions for the longer term, 10.

⁵³ Christopher Bellavita, “What is Preventing Homeland Security,” *Homeland Security Affairs* 1, No. 1 (Summer 2005): 7.

deliver services.”⁵⁴ The action networks are in a real sense the type of networks that are making regionalization work in sporadic locations across the nation. Examples of this phenomenon are occurring in such places as the National Capitol Region, Dallas-Fort Worth, Texas, area and the Capitol Region of Hartford, Connecticut. These systems, made up of networks of public health, fire, police, emergency medical, emergency management and communication officials are succeeding because they use their strengths of organization, dedication, commitment and leadership. Weaknesses do exist in the form of funding shortages and liability concerns, however, these weaknesses are not slowing down the progress of the organizations. Are the action networks on the cutting edge of true regionalization? Are these subtle signs of the affect of globalization?

Because the rapidly declining cost of communication is reducing the barriers to networks, other actors are becoming more involved in many governance arrangements that are not controlled by executives or legislatures of states. In other words, global governance involves private sector and “third sector” or non-governmental organizations, actors as well as governments. In the eyes of some analysts, the real losers in this power shift are less obviously governments that lack political leverage over policymakers and whose public image tends to be faceless and technocratic.⁵⁵

Regionalization by any definition should include the benefits of decentralization of power, placement of power in a definite area, and greater efficiency. Drawbacks as how to define the region, lack of guaranteed cooperation and potential power building must be considered. Still, these factors point to the potential value of regionalization within a state. Imagine a situation where a municipality is tapped out of resources and it simply requests assistance through an intrastate regionalized system. This layer of regionalization could provide access to resources owned by all the other local governments making up the region. This in effect becomes a second-tier of emergency management that suddenly makes any small police, fire, or public health agency comparable to the capabilities of a major metropolitan area. Next in line would be the

⁵⁴ Robert Agranoff, “A New Look at the Value-Adding Functions of Intergovernmental Networks,” *Paper prepared for Seventh National Public Management Research Conference at Georgetown University, October 9, 2003* (Bloomington, IN.: Indiana University, 2003), 7.

⁵⁵ Joseph S. Nye and John D. Donahue, *Governance in a Globalizing World* (Washington, D. C.: Brookings Institution Press, 2000), 22-23.

state, which in addition to its own resources, could easily access the resources of the other regions within the state. This system, as described, would have been invaluable during Hurricane Katrina. In that situation, resources in adjacent regions within the state were by-passed for state and federal resources, leaving many local response assets totally out of the picture. Their response could have occurred within hours.

“We have expanded programs without expanding the federal workforce,” stated Paul Posner, managing director of federal budget analysis with the U.S. General Accounting Office, “and what that means is that state and local employees have become a shadow workforce for the federal government.”⁵⁶ The same thing can be said of non-governmental agencies such as those attempting to provide shelter support in the Gulf Coast Region.

The short history of regional collaboration for homeland security is characterized by attempts of federal, state, and local governments to overcome a fragmented federal grant system and local jurisdictional barriers to assess needs, fill gaps, and plan for effective prevention and emergency response.⁵⁷

⁵⁶ National League of Cities, *Is the Federal-State-Local Partnership Being Dismantled?: Roundtable Proceedings*. Research Report on America's Cities (Washington, D.C.: NLC Press, 2003), 3.

⁵⁷ House Committee on Government Reform, “Homeland Security: Effective Regional Coordination Can Enhance Emergency Preparedness.” Document # 04-1009 (GAO-04-1009, GPO, September 2004), 9.

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IV. HOME RULE AND LOCAL AUTONOMY

It is commonly believed that all politics and disasters are local. Conventional wisdom professed this idea prior to Hurricane Katrina. Then a dramatic significant emotional event took place. Suddenly in a matter of days, everyone in the world saw the complete collapse of an American support system that we all took for granted had existed. The politics in the Gulf Coast was anything but local. Katrina was not just a Hurricane; it was a vivid message about racial segregation, social class status in America, and the thousands of people with some type of disability who became the forgotten ones. Katrina, it could be argued, was a symbol of what we as a society try to forget.

As a disaster, Katrina also proved anything but local. Mayor Ray Nagin could be seen on television pleading for any help he could get. Over 400 fire personnel from New York City alone would respond to New Orleans. Thousands of police, fire, public health and emergency medical personnel from across the nation would eventually be summoned. The feeling of independence that comes from autonomy would turn to a clear sense of dependence. The question of home rule for the affected parishes in Louisiana and counties in Mississippi seem like a mute point. This chapter will examine local control and why the forces of home rule, autonomy, and leadership are so strong? It also explores the impact these issues have on the regionalization of homeland security?

A. HOME RULE DEFINED

The purpose of the Home Rule Amendments in any state is to grant the right of self-governance in local matters. Thirty-nine states employ Dillon's Rule to define the power of local government.⁵⁸ No state reserves all power to itself, and none devolves all of its authority to localities. Virtually every local government possesses some degree of local autonomy and every state legislature retains some degree of control over local governments.⁵⁹

⁵⁸ Dillon's Rule is a little known judicial doctrine named for a 19th century Iowa Supreme Court Justice that state laws allow localities to possess only such powers as are specifically delegated to them by state law.

⁵⁹ Jessie J. Richardson and Meghan Gough, *Is Home Rule the Answer? Clarifying the Influence of Dillon's Rule on Growth Management* (Washington, D.C.: Brookings Institution Center on Urban and Metropolitan Policy, January 2003), vii.

The federal position on regionalization tends to ignore the state and local government relationship. Local governments are creatures of the states and states exercise total hegemony over local governments. Under the concept of home rule (Dillon's Rule) local governments are granted authority over matters of purely local concern.

Home rule was created in 1875 and saw an initial wave of interest that lasted through the 1930's. A second wave of state adoptions started after World War II. In 1953, for instance, the National League of Cities proposed a Model Constitutional Provisions for Municipal Home Rule.⁶⁰

Sometimes even though home rule is considered by some to be more myth than fact, it is still a factor to be reckoned with. New Jersey for example, has traditionally boasted its home rule orientation and citizens generally believe that forced regionalization can be construed as taking away local accountability.⁶¹ The New Jersey experience concerned school regionalization efforts and was a polarizing event in the sense that parents did not want their children going out of the neighborhood to attend school. Even the term "home rule" is somewhat confusing since the term has a dual role as both a political motto and a legal doctrine.⁶²

B. REGIONALIZATION EFFORTS

Most states are caught in cross-purposes. In order to receive federal homeland security funding (by any method of distribution), states are required to establish regions at their own discretion. But this mandate is an unnatural act for local government and raises the question will regionalization work? Just because we have the minds of state and local government, do we have their hearts? The standard answer to this question is "no." The standard justification for this answer is that the attachment to local autonomy is too strong for central cities and suburbs to participate together in a regional approach to urban problems.⁶³

As discussed in Chapter II, there are generally three reasons to regionalize. First, some economic reason (such as joint purchasing); second, it helps allocate public

⁶⁰ Barron and Frug, *Dispelling the Myth of Home Rule*, xv.

⁶¹ New Jersey Task Force on School District Regionalization, *Findings and Recommendations*.

⁶² Richardson and Gough, *Is Home Rule the Answer?*, 10.

⁶³ Barron and Frug, *Dispelling the Myth*, xv.

responsibilities to the different levels of government efficiently; and third, to bring the exercise of public responsibilities as close as possible to the citizen.⁶⁴

A significant number of states, including some without county government, rely on legislatively established regional planning offices or council of governments.⁶⁵ “While seemingly a logical step towards establishing regional collaboration, a major blocking factor exists in the form of missing formal decision-making structures. The level of coordination between local government and first responder groups remains a barrier to regional planning efforts, according to a recent National Association of Development Organizations (NADO) survey.”⁶⁶ However, seizing the opportunity, the National Association of Regional Councils (NARC) has declared to Congress that its 500 regional councils of government are fully prepared to provide the required structure and support to accomplish the goal of enhanced regionalization.⁶⁷ The NARC offer could prove invaluable and will be further explained and explored in Chapter 8.

Many times municipalities decline to cooperate in a regionalization effort because they think some other municipality will get more out of the deal than they do. For example, DHS grant funding practices in FY04 had the affect of discouraging regional participation because local governments could get approved equipment directly from the state. While the most successful and uncontroversial cooperative arrangements now used center around initiatives to save money, the DHS system was counter productive because it was not local money that was being spent or in affect being saved. Increasing local grant funds to municipalities that voluntarily participate in regionalization efforts would go a lot further in accomplishing the overall objective.

States themselves become an obstacle because of conflicting positions on regionalization. It is the state that affirmatively creates home rule, places limits on a

⁶⁴ Claudia Pamfil, *Evolving Intergovernmental Relations for Effective Development in the Context of Regionalization* (New York: Open Society Institute, November 2003), 68.

⁶⁵ National Association of Development Organizations, State Associations of Regional Councils of Government and Regional Development Organizations.

⁶⁶ National Association of Development Organizations, *Regional Approaches to Homeland Security Planning and Preparedness – Survey of the Nation’s Regional Development Organizations* (Washington, D.C.: NADO, August, 2005), 7.

⁶⁷ National Association of Regional Councils, *2006 NARC Policy Brief* (Washington, D.C.: NARC Press, 2006).

localities ability to sign inter-local agreements and does little to create an atmosphere of collaboration. In fact, the home rule petition process and state supervision of municipal entities tend to encourage vertical interactions with the state at the expense of horizontal relationships among municipalities.⁶⁸

The question is how can the state help in the formation of regions? It has to be more than some oblique reference in several homeland security directives. Also, it has to be more than another state mandate. It is easy to be skeptical of regionalization when centralization in the form of state power is the true source of coexistence problems. Regionalism should become a byproduct of state efforts to enhance local power rather than limit it. Here again, states know the cultural differences that exist within there boundaries and how to include local leaders in a process that will enhance the goal of regionalization. For example, in states such as California and Missouri, state officials have easily achieved regionalization and been applauded for it. The key in the successful states has been active intergovernmental research and analysis on how to succeed and a commitment from the state's Governor. Arizona conducted an in-depth strategic planning process on how to accomplish regionalization. On the other hand, other state experiences run the range from half-hearted effort and internal indifference to public power struggles and resistance to change. In Connecticut for example, it has been recommended that a state-wide committee be formed that would study regionalization and speed its acceptance within the state.

Often, simple reality can be a powerful force. A declining urban core seeks to narrow city-suburban disparities through regional tax base sharing, school consolidation, metropolitan fair housing programs, revitalization of abandoned neighborhoods, economic development zones, and other policies with redistributive impact.⁶⁹ The expectation is no different when it comes to homeland security. For example, under the FY06 risk-based funding policy, New York City objects to losing funds or being included in a larger region that results in the lost of funds to the city.

⁶⁸ Barron and Frug, *Dispelling the Myth of Home Rule*, 82.

⁶⁹ Foster, *Smart Governance, Smart Growth*, 6.

The profile of local development districts has been elevated through legislative mandates that clearly identify them as federal partners that help relieve not only conditions of economic distress in the nation's regions, but that perform a "clearinghouse" or "one-stop shop" function for sub-state regional economic development.⁷⁰

The local development district concept is well established (as discussed in Chapter 2) even though the idea of regional government flies in the face of home rule and local control. Regardless of the problems generated by the parochialism and competitive nature of localities, the general belief seems to be that home rule and regional cooperation are at odds with one another.⁷¹ Challenges to regionalization will be most vocal at the local level, as "Americans like the idea of small, accessible, responsive local governments and have not been quick to embrace larger governing bodies."⁷²

But the idea of small local governments can be a burden in carrying out the requirements of homeland security. For example, "in Missouri approximately 1,300 sub-grantees successfully applied for grant funding across the state. This caused a tremendous workload and allowing each political subdivision to apply for grant funding individually led to the duplication of equipment and resources with close geographical proximity to each other."⁷³ This problem was common across the nation and many states chose different alternatives to solve the problem. But Missouri, in addition to establishing 11 regions within the state, went a step further. The State of Missouri in partnership with the Missouri Association of Councils of Government (MACOG) forged an agreement whereby regional planning councils provide the operational structure to determine grant allocations and also handle the local administrative processing of the grant funds. Regionalization success is also occurring in states such as Kentucky and Texas.

⁷⁰ National Association of Development Organizations, *Federal State Regional Commissions: Regional Approaches for Local Economic Development* (Washington, D.C.: NADO Research Foundation, April 2003), 18.

⁷¹ Barron and Frug, *Dispelling the Myth of Home Rule*, 75.

⁷² National Cooperative Highway Research Program, *Building Effective Relationships Between Central Cities and Regional, State, and Federal Agencies – A Synthesis of Highway Practice* (Washington, D.C.: National Academy Press, 2001), 8.

⁷³ Missouri Association of Councils of Government, *Homeland Security Statewide Regionalization Framework* (St. Louis, MO: MACOG, July 2006). 2.

Solutions such as the one in Missouri are generally in line with federal guidance. If one of the general reasons to regionalize is to save money, then Missouri's answer meets the test. Secretary of Homeland Security Michael Chertoff has said many times that as a nation, "We are trying to buy all the homeland security we can afford." Missouri's solution also creates jurisdictional structures that help connect federal programs to local governments.

Missouri's response like the one in Kentucky shows that regionalization success can be accomplished. Conflicting pressures and evidence of resistance aside, home rule and local autonomy can be turned into positive forces if the effort is put into coming up with an inclusive consensus by all parties.

C. LABOR AND MANAGEMENT'S INFLUENCE

Union resistance can be significant, especially in the Northeast, and leaders considering regionalization should analyze the impact of collective bargaining. The resistance is usually based on the impact of budget cuts over the past few years. For example, in places such as Pittsburg, PA., and Buffalo, N.Y., the idea that staff can be reduced and mutual aid resources from the region utilized, has been touted by consultants and endorsed by cash strapped politicians. In some states, unions are a powerful force and any action that may alter working conditions must be handled in a methodical manner. Public sector unionization is on the rise even though most states are right to work states.

Organized labor believes they have been deceived by consolidation efforts in the past. Any discussion of regionalization, whether voluntary or mandated by the federal government, lives in the memory of past battles over job security. Participation in a joint task force (for example a regional law enforcement swat team) requires the agencies to realize a tangible gain for their communities or the effort will eventually dissolve. Other efforts, such as fire service strike teams, are generally temporary and incident specific, but are also based on perceived value to all parties. For example, fire service engine strike teams used on California wild fires.

Management also has concerns about the impact of regionalization. Will the federal government cover the cost of the overtime required for incidents and training exercises required in the region? How many people will management allow to participate

in regional response teams, such as hazardous materials teams and bomb squads? How long does it take to get reimbursed, if there is any reimbursement? And the ever favorite, “since we don’t have terrorists in our town, why should we go to all this effort”?

Additionally, management is not sure if there is any way to accurately calculate the value of all this effort. “Collaboration results need to be assessed because any loss in efficiency due to political, institutional and technical pressures diminishes public value.”⁷⁴

D. A QUESTION OF EGO’S

Can the human nature of the players interfere with the concept of regionalization? It certainly would seem so. There are a number of complex psychological reasons that may cause the parties required to regionalize not to agree. Not the least of these reasons is the lack of inclusion in the planning process. Many of the inclusive efforts so far have been symbolic at best and narrowly applied in reality as many state emergency management personnel see regionalization as an infringement on their position and authority. For example, in Connecticut, the planning process involved selected invitees from around the state with an even balance of state representatives. In Connecticut planning for homeland security is not based on regional input, but rather functional representation, such as police, public health and fire. The process is used to explain how the state investment justifications will fit into the overall expenditure of state homeland security funds. On the other hand, noted exceptions are in Arizona and North Carolina where collaborative inclusive efforts are well under way and championed by state employees.

What happens when the grant money stops? Can the federal government continue to enforce a standard that is risk-based? Serious questions center on the motivation for a community to participate in the national agenda if they can not prove a danger of terrorist attack. Didn’t New York City Mayor Michael Bloomberg exhibit big city egoism over a reduction in homeland security funding?

Some sensitivity to the ego issue is being exhibited at DHS. In recent remarks, Michael Chertoff emphasized that the federal government would not supplant state and

⁷⁴ Agranoff, “A New Look at the Value-Adding Functions of Intergovernmental Networks,” 2.

local emergency responders on the front lines of a disaster. “The idea is to carefully understand your requirements, assess your capabilities, work with you to figure out what additional capabilities you need, and then draw upon the capabilities we have at the federal government to support you,” he said.⁷⁵

E. FEAR OF EMERGENCE

A recent analysis of the nation’s efforts revealed that the “fear of emergence” plays a role. “The phenomenon is what happens when you try to control everything. This concept applies at all levels of government. It is based on the proposition that control is not a property of complex human systems. The social, political, and economic world is not a product of control. It is the result of an emergent, self-organizing process.”⁷⁶ This process is the emergence of the new science of networked social behavior. While one could argue that the Department of Homeland Security itself is an emerging activity out of the “self-organizing” principles of government, the real point here is that DHS does not indicate an appreciation for the various networks that actually make up the delivery of homeland security or how to effectively put them to use in the goal to enhance regionalization.

F. FINANCIAL INCENTIVES

Some officials argue that with all the grant money flowing there should be some type of financial incentive to encourage intrastate regionalization. In Connecticut for example, each municipality that signed their FY06 homeland security funds over to a regional program earned an extra \$2,000 of additional funds, up to a maximum of \$75,000 for the region.

The most pressing homeland security need in small metropolitan and rural areas, according to an overwhelming majority of National Association of Development Organizations survey respondents, is the need to provide incentives for regional cooperation among local jurisdictions.⁷⁷ The survey reported an expected outcome, but it still offers a viewpoint that may have to be considered by DHS at some point in the future.

⁷⁵ Strohm, “Chertoff Vows Feds Won’t Supersede Local Responders.”

⁷⁶ Bellavita, “What is Preventing Homeland Security,” 7.

⁷⁷ NADO, *Regional Approaches to Homeland Security Planning and Preparedness*, 7.

Many states such as New Jersey, have traditionally boasted its home rule orientation, and “forced regionalization” can be construed as taking away the local accountability of a particular constituent community which may regionalize. Providing financial and other incentives to reach the goal of regionalization only when it has been documented that benefits will accrue seems like the less controversial route.⁷⁸

Buying compliance for federal programs is the norm and the basis for numerous federal grants. But in this case, it somewhat undermines the concept of just doing the right thing for the common good of the community.

G. INPUT EXPECTATION

The common theme among officials at the local and tribal level of government is that input into DHS programs has been non-inclusive or the review time is so short that it effectively prevents any real input. In short, the feeling is that the decisions are already made and that DHS just wants the other players to sign off on their decision.

Even the states feel abused in this “input expectation.” Concern continues over the lack of state input into federal policy development. Homeland security directors are nearly unanimous in their recommendation that the federal government coordinate with states prior to adopting and implementing policies.⁷⁹

One would think based on their own experience with the federal government that states would be very sensitive and responsive to the input expectations of local government. One reason for this situation is that the states are the designated state administrative agent by DHS. If you control the money you have a power base and if you (the state) have to answer for the expenditure of funds in the audit process, the element of control is a natural reaction. However, this is still an uphill battle for many locals and one with very definable repercussions if not corrected soon.

State and local officials often are suspicious of new federal initiatives. They feel threatened by possible erosion of their autonomy, leadership or authority; concerned

⁷⁸ New Jersey Task Force on School District Regionalization, *Findings and Recommendations*, 5.

⁷⁹ Jeff Mitchell, *Issue Brief: 2006 State Homeland Security Directors Survey New Challenges, Changing Relationships* (Washington, D.C.: NGA Center for Best Practices, April 3, 2006).

about new expenses being thrust upon them; annoyed at additional work responsibilities; afraid of being blamed for failure; and reluctant to expend time and resources.⁸⁰

A great deal of secrecy has cloaked the development of homeland security intergovernmental relations. According to the National Academy of Public Administration, “City and State officials who will work in regional networks apparently have had little input in the initial development phase. Approaching major changes from an intergovernmental management perspective has in the past been important in securing bipartisan support in Congress and in states and local governments.”⁸¹ This is a lesson that has been missed in the turmoil at DHS.

Several states have eased legislative restrictions that interfere with regionalization. Indiana for example, has an intrastate mutual aid program that applies to every political subdivision of the state unless they have adopted an ordinance of resolution opting out of the program.⁸² Connecticut is proposing the same type legislation in the upcoming 2007 session. Other States have discovered that change to ease regionalization efforts is just not going to happen. “Governor Thomas Vilsack, of Iowa, came up with a plan to reduce government down to a reasonable number of sub-state entities, proposing fifteen (15) based on pre-established community college boundaries. The local governments didn’t buy the idea, opposition arose and the concept died a natural death. The idea missing even at the state level was that cooperative efforts seem to work best where there’s already a level of trust established on the ground.”⁸³

⁸⁰ National Academy of Public Administration, *Advancing the Management of Homeland Security: Managing Intergovernmental Relations for Homeland Security* (Washington, D.C.: NAPA, February 2004), 7.

⁸¹ Ibid., 9.

⁸² Indiana Code 10-14-3-10.6.

⁸³ Alan Greenblatt, “Little Mergers on the Prairie,” *Governing* (Washington, D.C.: Congressional Quarterly, July 2006), 48-51.

V. RISK ACCEPTANCE ISSUES IN REGIONALIZATION

What legal provisions common to state government for liability and risk purposes would prevent or impede regionalization? Might it simply be that anything that needs government approval chills the process, implies local government control and signals liability questions? Risk issues, especially items such as workers compensation concerns, would not have been on the radar screen for the Department of Homeland Security when making the regionalization decision. This concept itself would not create problems for the federal government because a subject such as liability would be covered under broad state legislation pertaining to civil preparedness forces. However, the unintended consequence is the liability gap created when regions are formed and respond to a regional incident that is not declared as a state or federal emergency. In short, coverage for risk related issues was apparent for federal emergencies or state declared emergencies within a given state. But, the newly designed intrastate regions are left in legal limbo until the state chooses to adopt an applicable state liability law that pertains to mutual aid and provide regulatory guidance on the proper activation of resources in the regions.

It could be asked, if regionalization is so right, why do we need mutual aid agreements? Consider the impact of workers compensation issues, liability issues, the affect of the Emergency Management Assistance Compact Act and Robert T. Stafford Act on the establishment of regionalization. EMAC was designed specifically to address liability and risk issues before resources were dispatched to other states. EMAC in a sense acts as a contract between states that provides answers to questions on coverage for salary costs, lost equipment, and travel expenses in addition to liability protection. Certain portions of the Robert T. Stafford Act provide answers for federal government employees, but offer little in the way of state, regional or local liability protection. As of yet, neither of these two federal acts offers any real answers for intrastate liability and risk questions.

In Chapter I, the question was posed whether we could rightly assume that all localities and states will accept the risks and liabilities associated with regionalization

without significant legal debate? As discussed below, this remains a tough issue and satisfactory answers still do not exist.

A. WORKERS COMPENSATION ISSUES

While the model agreements cover issues such as who is responsible for injuries to members of the assisting unit, case law indicates that the requesting entities may be responsible for their worker's compensation claims if they are injured during the response.⁸⁴ Additionally, worker's compensation issues change considerably when discussing volunteer organizations, such as fire departments and volunteer rescue/emergency medical units. With over 75% of the nation's coverage provided by volunteer organizations, the worker's compensation issue has a major impact on the willingness of the volunteers to participate in any activity outside their response district or for a host municipality to cover any response related injuries outside the legally recognized response district. This issue alone can be a major reason for a lack of willingness to participate in regionalization efforts.

Some disaster response personnel, such as members of Citizen Corps Council Programs involving Citizen Emergency Response Teams (CERT), Medical Reserve Corps (MRC), hazardous materials response teams, urban search and rescue teams, law enforcement tactical teams, bomb squads and dive teams all commonly have some protection under certain federal and state activation procedures, but often have none on a regional response.

B. LIABILITY ISSUES

Normally the attorney general of a given state handles all state claims arising out of the implementation of emergency plans, including claims for reimbursement of state funds or for compensation by the state for commandeering private property. It is a recognized legal concept that during a major disaster, officials may not always make the right decision or provide an effective response. For example, the controversy surrounding the actions of former FEMA Director Michael Brown and the collective reaction to his performance demonstrated the need for liability protection. Granted no law suits have been filed yet, but there are a number of areas that make it a possibility. As a general

⁸⁴ *Thomas v. Lisbon*. 4 Connecticut Workers Compensation Rev. Op. 136, 364 CRD-2-84, 365 CRD-2-84 (December 24, 1987), error, judgment directed, 209 Conn. 268 (1988).

concept of law, saying you have a plan and then not performing up the standards of the plan can create a general sense of liability. On the other hand, it is important to remember that federal and state law usually immunizes official responses to an emergency. Courts generally accord officials and first responder's wide latitude to cope with extraordinary situations, concerned that inducing inaction could cost lives or property unnecessarily.⁸⁵

But with the advent of regionalization, there is a fundamental gap created in the legal rights and liability coverage of responders. If a first responder is working in his/her own jurisdiction they are protected for liability issues. If that same first responder is activated under a state declaration they are protected for liability issues by the state. If they are activated under a regional concept of response, without the permission of the state, they may not be covered at all. Regionalization as yet has no legal standing in reference to many serious liability issues. Local government response assets have legal standing under all state statutes when activated by local or state emergency management officials. However, a regional movement of assets and personnel leaves many questions unanswered. Who provides the liability and workers compensation coverage for CERT volunteers or Medical Reserve Corps members used on a regional basis where no state disaster has been declared? How will response costs be reimbursed? Who recognizes the credentials for professional medical personnel responding to an incident? Who provides command and control for the regional response forces? Taken as a whole, these issues all point to reasons for local government units not to embrace the concept of regionalization.

C. EMERGENCY MANAGEMENT ASSISTANCE COMPACT

Every governor is the state's overall director of emergency management. Generally, governors command National Guard troops for their state, have the power to order evacuations and quarantines, can suspend purchasing requirements, commandeer or use private property, and can redirect all of the state's personnel for emergency management purposes. Additionally, the Governor can authorize emergency funds and enter into mutual aid agreements with other states.⁸⁶ The EMAC strategy is based on the simple premise that states ought to have the right to help one another during a period of

⁸⁵ Barry Kellman, *Managing Terrorism's Consequences: Legal Issues* (Oklahoma City, Oklahoma: National Memorial Institute for the Prevention of Terrorism, 2002), 73.

⁸⁶ Kellman, *Managing Terrorism's Consequences*, 58.

disaster. The EMAC legislation provides the mechanism for that assistance to be provided. Currently, only one state is not covered by an EMAC agreement.

EMAC, while a very positive addition to response efforts, provides a perfect example of what's wrong with the regionalization concept as proposed by the federal government. EMAC provides advance recognition and resolution of numerous legal and logistical issues. All efforts are designed to ease the utilization of the concept and speed up response. On the other hand, few if any states have developed clear legislation that covers an intrastate regional response to any type of incident. Many mutual aid agreements are nothing more than verbal arrangements that change when the organizational leadership changes. Initial efforts are just beginning to address this weakness. Indiana adopted legislation that allows for statewide mutual aid (automatically unless a municipality opts out of the system by resolution), where any county or municipality can help one another in the state. As a rule though, questions of coverage for liability and workers compensation costs are left to the local governments to decide. While EMAC provides an illustration of what can work, it is not mentioned in the National Response Plan and is not being used as a model to solve intrastate problems.

D. ROBERT T. STAFFORD ACT

The Robert T. Stafford Act provides the basis for federal response to a state's request for assistance during a major disaster. This act along with the Federal Tort Claims Act of 1946 serves as the guidance for claims against the United States Government. While the Stafford Act immunizes the United States against claims for an "act or omission of an employee of the government," the Torts Claims Act waives the government's sovereign immunity from tort liability for acts or omissions of its employees "under circumstances where the United States, if a private person, would be liable to the claimant."⁸⁷

E. CONCLUSION

Risk acceptance issues commonly associated with the goal of enhanced regionalization are straight forward and permeate any policy discussions held by state homeland security councils or commissions. The first question asked by practically

⁸⁷ U. S. C. A. Section 2674. The U. S. Government cannot be held strictly liable for a wrongful act even if an individual defendant could have been so held.

everyone when requested for a disaster response is what level of liability protection do I have and what happens to me if I get hurt? These are simple questions with tough legal answers. Answers that as of yet have not been totally resolved and still stand in the way of many local governments embracing intrastate regionalization.

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VI. THE POWER OF MONEY — FUNDING DISTRIBUTION ISSUES

There's an old saying in the halls of power: "follow the money." This statement applies whether you are in corporate America or any level of government. Money may not indicate any degree of leadership, but it will clearly indicate power and influence, especially inside the Washington beltway and when referencing federal grant funding processes.

Money from the federal largesse has always been the source of struggle between political parties, federal agencies, state governments and local municipalities. Leadership in both the United States Senate and House of Representatives is for the most part based on what grant funds an elected official can push to his/her home district or state.

But now we have a new game in town. Congress and the 9/11 Commission are insisting that homeland security funds be doled out by a risk-based formula. The Department of Homeland Security must develop a distribution formula different from any ever used by a federal agency for grant distribution. Never mind the fact that agreeing on a risk-based formula may be next to impossible. The Department of Homeland Security (DHS) is a new robust agency and they can withstand the political beating that's already begun. It's the proverbial political dilemma - DHS may get it right and still be wrong. Everyone agrees that the risk-based process makes good sense as long as it does not adversely affect them. In the past, everyone got something, that's what politics is all about. However, in the brave new world, we can only afford so much homeland security and everything can't be critical. How can we be assured the new system will work? How will government agencies evaluate concepts like risk, threat and vulnerability? Just how much imagination and creativity can we stand in this journey to safety land? And, will the distribution of funds based on risk create a practical definition of regionalization?

Chapter VI will explore the affect of grant funding, the emotional response it evokes from local governments, the funding process and the changing DHS role. The important point is to evaluate the impact of risk-based funding on the ultimate outcome of enhanced regionalization.

A. NEW FEDERALISM

Recent history of the federal grant wars is somewhat ironic and began approximately thirty-five years ago. President Richard M. Nixon intended to devolve a greater degree of decision-making to states and localities, but the changes that occurred during his administration ultimately expanded federal intervention into state and local governments. “New block grants and revenue sharing gave the federal government more influence over state and local policy-making because the federal government placed conditions on the use of the funds. Funds could be reduced or withheld if the recipient government failed to meet these conditions. Since block grants and general revenue sharing brought federal aid into many communities for the first time, “New Federalism” enabled the federal government to have more influence over American society than ever before.”⁸⁸

In accordance with the unwritten rules of any legitimate funding argument, we had to have at least one court case. Not just any case however, but a Supreme Court case involving then future Presidential candidate Robert Dole. The ruling was that “Congress may attach conditions on the receipt of federal funds. However, exercise of the power is subject to certain restrictions, including that it must be in pursuit of “the general welfare.”⁸⁹

B. A QUESTION OF POWER

The quest for power and influence over the spending of the grant dollars goes deeper than restrictions at the federal level. In the case of homeland security, there is extreme emotion and billions of dollars at stake. Everyone wants their say in how this pot of gold will be spent. On top of this, the relationship among all levels of government is thought by some to be changing and becoming less certain. “At a high-level National League of Cities conference in 2003 the consensus of the participants in the roundtable discussion was that the federal-state-local partnership was in peril. In particular, panelists agreed that shifts in federal policy – including the current predilection toward block

⁸⁸ Timothy Conlan, *From New Federalism to Devolution - Twenty-five Years of Intergovernmental Reform* (Washington, D.C.: Brookings Institute Press, 2003), 85-87.

⁸⁹ U. S. Supreme Court. *South Dakota v. Dole*, 483 U. S. 203 (1987). (Accessed at <http://caselaw.findlaw.com/scripts/getcase.pl?court=us&vol=483&invol=203> on June 22, 2006).

grants, unfunded federal mandates, and tax-cuts – are weakening the federal role in the nation’s intergovernmental system and limiting the ability of state and local governments to solve urgent problems.”⁹⁰

“The receipt of federal homeland security funding is contingent upon states completing, and the Department of Homeland Security (DHS) approving, statewide homeland security plans. Under federal guidelines, each state’s comprehensive plan should involve the active participation and input of local governments. However, in a recent analysis nearly 30% reported that their state’s process for involving local governments in statewide homeland security planning activities remained undefined and 41% said it was only “somewhat” effective. When given the opportunity to provide general comments, a common observation among respondents to a National Association of Development Organizations survey was that states were often reluctant, or in some cases unwilling, to involve local government officials.”⁹¹

Getting local government to be involved in the decision-making process is a major task since there are approximately 36,000 municipal governments, 3,000 counties, 50 states and six territories. To further complicate the situation the federal government decided that they only wanted to deal with fifty state customers as administrative agents.

The federal decision to only deal with state administrative agents may have been based on sound reasoning, federalism, or just the desire to limit political backlash. The decision however, did little to support the intended regionalization effort. Overlooked in the process was the fact that states have their own agenda, especially concerning homeland security. Many of the state homeland security funding policies reflect the conflict between the regionalization concept as dictated and the political power lost. For example, only a handful of states have committed to distributing grant funds through a system of regionalization. Also, in many states the grant requirement to distribute 80% of the funds to local governments changed the state’s code orange law enforcement reimbursement plans.

⁹⁰ National League of Cities, “Is the Federal-State-Local Partnership Being Dismantled?”iii.

⁹¹ NADO, *Regional Approaches to Homeland Security Planning and Preparedness*, 7.

C. THE FUNDING PROCESS

The theme of the funding process that DHS set up undermines its own priority to foster regionalization. It does so in at least three ways. These are that DHS sent funding to the state administrative agents with direction to distribute 80% at the local level, but local involvement in the decision making was often nonexistent. DHS directed the state to decide the regional makeup of their state, but couldn't resist determining the Urban Area Security Initiative (UASI) regions. And finally, DHS set up a competitive grant system that seems to undermine the overarching goal of regionalization and then they developed a complicated risk-based formula for distribution of the funds.

The DHS funding program, while disjointed, began just like any other grant program. Multiple homeland security grant programs were consolidated for the ever present goal of efficiency. Funds were distributed based on the typical per capita formula that everyone recognized. It was obvious from the beginning that if danger lurked everywhere we could only afford a certain degree of security. Priorities had to be set and decisions made. It was assumed that cities like New York, Los Angeles, and Washington were on the top of any terrorist's target list. The competition for funding became a competitive sport and most small municipalities sensed their security was not being considered. Distribution of funds based on anticipated risk was the battle cry at DHS, in Congress and in the big cities.

"Proponents of a new funding approach hope to strengthen prevention, preparedness and response by providing more dollars to urban initiatives. This is a move opponents fear will leave America's heartland vulnerable to terrorist attack and simultaneously provide terrorists easy access to urban populations by exploiting the weakest links in the nation's security system."⁹² Was the federal government telegraphing our pre-determined low priorities to terrorist world wide? Have we actually created a system of easy targets?

Not surprisingly, political leaders pontificated about the righteousness of the risk-based funding proposal and how it will support regionalization. "The idea of having some regional effort and dividing – defining regions in a meaningful way has moved us

⁹² Reinertson, *Resource Sharing*, 4.

towards making sure the money is being spent in those ways that really address the greatest risk and the greatest vulnerability” were the comments of presidential hopeful George Romney, a member of the Homeland Security Advisory Council.”⁹³ But, you may ask “what terrorist is going to check the regionalization program before a target is selected?” New York City has perhaps the best response capabilities of any city in the United States and it was hit and still remains a major target based on the testimony of any number of terrorist experts. Part of the situation that exists is caused by the state administrative agency relationship in the states. While by law, there is an 80% local and 20% state allocation, it does not mean that an easy cooperative relationship always exists or that money is flowing smoothly. One of the key discussion points in preparing the FY06 funding request dealt with the tools used to process the funding. “Regional collaboration and other such resources that are in place to support the grant allocation process” were to be discussed and outlined.”⁹⁴

The largest danger to continuity of funding is “supplantation,” the substitution by states of the large infusion of federal dollars for state spending. For instance, in Connecticut, the state proposed cutting \$2.3 million in state funding for local public health departments – the same amount that was pledged to these departments under federal bioterrorism grants.”⁹⁵

“Funding has become a premium in most states and FY2006 saw significant decreases in basic funding for most states. The Justification and Investment process to be used with the FY06 funding and the regional approaches to manage federal homeland security dollars help to ensure that those funds are spent (in a manner) that is targeted at security gaps.”⁹⁶ In Kansas “a significant portion of the 80% in funds required to pass through to local jurisdictions will be awarded with a requirement that they be used for the

⁹³ George Romney, “Comments at Homeland Security Advisory Council Public Meeting,” (Washington, D.C.; U.S. Department of Homeland Security, June 17, 2004), 20.

⁹⁴ Department of Homeland Security, *State Homeland Security Program and Capability Review Guidebook, Volume 1* (Washington, D.C.: GPO, October, 2005), 66.

⁹⁵ Bernard J. Turnock, *Public Health Preparedness at a Price: Illinois* (New York: The Century Foundation, 2004), 27.

⁹⁶ *Homeland Security: Effective Regional Coordination Can Enhance Emergency Preparedness.*

purpose of regionalizing.”⁹⁷ But even after the process is approved, it can still change. In Connecticut, one of the seven original justified projects was dropped (Investment #4 – Providing Secure Communications with requested funding of \$7,521,128) and the other six projects were cut an average of 39% across the board. This was a politically expedient move that affectively limited in-depth questioning. Specifically, State Homeland Security Grant Program (SHSGP) funding for Investment #1- Expanded Regional Collaboration dropped from the justification and investment amount of \$7,829,331 to the current proposal of \$2,114,324 or approximately 27% of the original request.

Part of the problem involves the inherent nature of the states dealing with pre-existing grant systems and now having to deal with the new system absent any real definition of risk or how to evaluate risk. For example, states were asked to submit high risk sites under the Buffer Zone Protection Program, which they all did. In Connecticut hundreds of sites were evaluated as high-risk in 2003. The projects selected and funded seem to follow the “danger of the day” as determined by DHS and left some local officials surprised and baffled.

D. REALITY CHECK IN PROGRESS

The whole concept of risk-based funding has been contentious. Many would argue that it only made sense to protect the highest risk-based priorities that exist in America. The concept seems innocent enough until the realities of politics and perception intersect on the definition of what a high risk target actually is. Even the large municipalities like New York and Washington were touting the virtue of the idea. That is until they saw the results of the funding scheme in May, 2006. Even with the system preview demonstrated by the Urban Area Security Initiative (UASI) regional selection and funding process, Congress and big city mayors were in for a shock.

However, the shock had been anticipated by some experts. “When DHS compiled a list of critical assets supplied by the fifty states, it ran to several thousand facilities. But if everything is critical, nothing is. Widespread application of this term has made it impossible to focus on the private sector operations that are at greatest risk of being

⁹⁷ *FY06 State of Kansas Homeland Security Funding Guidance* (Topeka, Kansas: Governor’s Council on Homeland Security, May 26, 2005), 2.

attacked, either because they could generate large numbers of casualties, or because an attack would have a cascading effect on the rest of the economy.”⁹⁸

But is the funding policy put forth by DHS sending mixed signals? The UASI funding is targeted directly towards regionalization, while the rest of the nation’s communities are left to the defining policy of the various states. While regionalization is an overarching goal of DHS, not insisting on regional distribution of grant funding, weakens the intention. Nine states are choosing to use some form of regional funding during FY06, while most states will continue the population based per capita distribution of funds. This causes policy and funding priorities in forty one states to only vaguely reflect the professed strategy.

Among the real obstacles to regionalization is the lack of funding in a true sense under the state guidelines. This means that many states have not yet (or have chosen not to) actually set up regional structures that would support reorganization into visible entities. A significant amount of regionalization funding remains diverted to broad programs that were already staffed. Some initiatives just changed the name of the program to comply with federal requirements. Secondly, by taking the war on terror overseas, we effectively are layering the defense of the nation and making it easier to assume no further attacks will ever occur in America. And third, the war in Iraq has monopolized the time of the President, allowing the dysfunctional operation at the Department of Homeland Security to surface. Congress is left to battle over billions of dollars, respond to complaints about risk-based funding and to decide the fate of the Federal Emergency Management Agency (FEMA).

As these realities began to play out, it became obvious to observers that risk-based funding was okay as long as perceptions matched political expectations. Suddenly, however, all across the nation that dream evaporated. The push for collaboration directly conflicted with parochial competitive attitudes. The fears of leaving America’s heartland vulnerable to terrorist attack before the announced funding distribution changed to open criticism of the risk-based funding process by the nation’s big cities.

⁹⁸ Richard Clarke and Rand Beers, *The Forgotten Homeland* (New York, NY: Century Foundation Press, 2006), 60.

In January 2006, media and editorial page comments such as “we think Chertoff’s plan will start to shape the kind of defense that should have already been in place” were common across the nation. For starters they continued, “Chertoff will make sure the funds go to cities and areas that actually have targets for terrorist attacks.”⁹⁹

Six months later, as disbelief set in, the attitude appears drastically changed. Coverage has now turned to such items as Representative Peter King’s (R-NY) blistering attack on DHS for taking money away from New York. “Homeland Security funding cut the city of New York by 40 percent. I have said then and I’ll say now: This was a stab in the back to the city of New York,” said King. It was indefensible, it was disgraceful, and it raises very real questions about the competency of this department.”¹⁰⁰

After months of pushing politically for the risk-based funding process, New York City was shocked when they lost approximately 40% of the previous year funding. In Mayor Bloomberg’s testimony to the House Committee on Homeland Security he presented a thought provoking question about the funding process. “I urge to ask if, by reviewing requests to protect more than a quarter-million critical infrastructure facilities across the nation, that DHS committed the classic error of losing sight of the forest for all those trees. Just because a facility is critical doesn’t make it a likely target and that’s the test that ought to be met in allocating high-risk funds. Re-defining of risk to include something for everyone leaves us right back where we started. Bloomberg called the whole process a riddle, wrapped in a mystery, inside an enigma,”¹⁰¹

E. HOMELAND SECURITY’S ROLE

“But who should identify the risk factors that will determine funding is another fundamental policy question. House of Representatives Bill 1544 and H.R. Bill 2360 propose risk factors that DHS is to consider, but both bills propose to give a large degree of discretion to DHS. Given the importance of data availability as a criterion, Congress may not be in a position to accurately determine risk factors, but because of its oversight

⁹⁹ Clarke and Beers, *Forgotten Homeland*, 60.

¹⁰⁰ “Mayor Testifies for Homeland Security Funds in Washington,” *NY1 News* (June 21, 2006). (Accessed at <http://www.ny1.com/ny1/content/index.jsp?stid=6&aid=60389> on June 23, 2006).

¹⁰¹ “New York Mayor Bloomberg Testimony on Homeland Security before the United States House Committee,” *New York Jewish Times* (June 27, 2006). (Accessed at <http://nyjtimes.com/cover/06-27-06/NYBloombergOnHomelandSecurity.htm> on June 28, 2006).

responsibilities, Congress might want to review DHS' risk-based methodology and risk-based distribution formula. On the other hand, by allowing a large degree of discretion to DHS in allotting federal homeland security assistance, Congress may not be able to determine in open hearings the reasoning behind the distribution of funding to states and localities.”¹⁰²

Michael Chertoff's previous comments in March, 2006, seemed straight forward when he stated “As we get disciplined, as we focus on the reality of what we're trying to protect – which are people, critical infrastructure, ports, things of that sort – we're going to increasingly be looking to regional approaches, that put politics to one side and talk about real tangible things like risk – including consequence, vulnerability and threat.”¹⁰³ Chertoff seems to have significantly underestimated the putting the politics aside part.

Few decisions have upset New York City as much as the current homeland security formula. In upstate New York the results were equally harsh and local media wrote, “This dramatic cutback translates into a loss to the Buffalo region of some \$7 million for 2006 and the outlook for the future is even worse. The region had expected \$70 million in federal aid over the next five years and now, unless there is a decided change, any programs the region has been planning will have to be dropped, curtailed or funded from local taxes or state grants.”¹⁰⁴

The impact is not just on States and local governments. Funding to non-government organizations also takes on new and often cruel appearances. “Another factor in the concern over whether the money continues to flow is perceived government bias against nonprofits. Homeland Security initially sought to protect private interests and government targets. Nonprofit officials say their crucial role in stemming the devastation of last year's hurricane season, at times in place of a floundering government, has proved

¹⁰² Congressional Research Service, *Risk-Based Funding in Homeland Security Grant Legislation: Analysis of Issues for the 109th Congress* (Washington D.C.: Library of Congress, August 29, 2005), 11.

¹⁰³ “State and Local Managers Guide to Homeland Security Grants 2006: Risk-Based Reactions,” *Homeland Security Today* (March 2006): G14.

¹⁰⁴ Murray Light, “Homeland Security cuts are painful,” *Buffalo News* (July 3, 2006). (Accessed at <http://www.buffalonews.com/editorial/20060702/2005618.asp> on July 3, 2006).

the value of protecting nonprofits. Jewish officials cite Jewish hospitals and mental health clinics that deal with post-traumatic stress as examples of nonprofits deserving protection.”¹⁰⁵

F. A COMPLICATED FORMULA

Examples like those above are understandable reactions when you ask the basic question of “who cares.” When you consider the spending patterns that had developed under the per-capita system, local pressure to keep money flowing, and the 2006 House and Senate elections, the battle lines were drawn. The challenge to think new, be imaginative and stretch the boundaries suddenly sounded like a weak counter argument. The new system was an affront to the values of the stakeholders in this process. What was this secret formula? Who are they to determine the threat, vulnerability and consequence of a terrorist attack? In fact, 1/3 of the state’s score was based on effective response capability, while 2/3rds was based on likely terrorist targets in the state. While this information concerning response capability was ultimately revealed details of the evaluation of likely terrorist targets was withheld as sensitive data.

New York City seemed to miss the impact of the overarching goal of regionalization. Look at Los Angeles and the San Francisco Bay area and you see the realization that plans and programs have to increase in scope and cover the whole region. Also, look at what is happening in the National Capitol area and you begin to realize that Mayor Bloomberg’s riddle actually has a name. It is called regionalization.

Is it just now becoming clear to state and local officials what regionalization really means? In the Nation’s Capitol it means multiple states having to think as one entity. In New York City it no longer means just the city by itself. The official notification was there if state and local governments were paying attention.

The General Accountability Office (GAO) had already given notice. “Regional coordination can also help to overcome the fragmented nature of federal programs and grants available to state and local entities. Successful coordination occurs not only vertically among federal, state and local governments but also horizontally within regions. The effective alignment of resources for the security of communities would

¹⁰⁵ Ron Kampeas, “Jewish Groups Hope for Homeland Security Funds,” *Jewish Times* (Baltimore), July 1, 2006. (Accessed at <http://www.jewishtimes.com/News/5763.stm> on July 2, 2006).

require planning across jurisdictional boundaries; neighboring jurisdictions may be affected by an emergency situation in many potential ways, from implementation of mutual aid agreements, to accepting evacuated residents, to traffic disruptions.”¹⁰⁶

Will the argument extend to the hinterland? Some states have already begun to distribute the funding by regions. As a direct result of the decrease in federal funding all states are finding that regionalization (risk-based or not) will soon be a driving force in how funds are appropriated. For example, nine states have chartered a path like North Carolina. That state changed its formula for homeland security funding so money will no longer go automatically to local emergency management agencies.¹⁰⁷

¹⁰⁶ *Homeland Security: Effective Regional Coordination Can Enhance Emergency Preparedness*, 9.

¹⁰⁷ Steven Jones, “Carolina’s Changing Policy on Homeland Security Funding,” *Myrtle Beach Sun News*, (Myrtle Beach, SC, February 14, 2006).

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VII. REGIONAL LEADERSHIP

Perhaps as important as money and commitment, the success of the Department of Homeland Security goal of enhanced regionalization depends on the ubiquitous requirement for leadership. Excellent plans, creative public safety announcements, and motivating speeches may be the norm, but they offer little measurable leadership impact at any level of government. At the proposed regional level, leadership evolves around any initiative based on proven need, clarity of vision and mission and a sense of community. Instinct drives us to protect and serve what we feel a part of. Reaching this basic instinct concerning homeland security should be natural and easy. But, the concept of enhanced regional collaboration has not flowed easily into the collective government mindset. Also, if the need for homeland security is obvious and the vision and mission understood, what secret will bind us to that sense of community? On 9/11 what phenomenon caused total strangers on Flight 93 to coalesce? As you surmise, the writer proposes that leadership or lack thereof, is the critical ingredient. It will be the ultimate factor in the success of the enhanced regionalization goal.

In this chapter, the subject of leadership as it pertains to the goal of enhanced regionalization will be explored. Stakeholder involvement, the impact of network interactions and shared decision-making will be introduced. Leadership weaknesses, politics and the mixed signals by DHS will also be analyzed. In the end, regions may be chasing the money, but without the leadership even the funds will not make an effective difference.

A. OVERLOOKED NECESSITY

Different authoritative sources rate the value of good leadership as 15–25% of any endeavor. Even the best plan may fail to move in a positive direction if there is no committed advocate or leader to push the initiative. Leadership, the subject of thousands of books, articles and essays, usually centers on definition, how it works and what it should be bringing to the effort in question. In reality leadership is sometimes easy to overlook, but almost always noticeable if it is absent. Leadership, even if hard to describe, is changing in our global environment like everything else in life. The new message moving across the horizon is collaborative leadership. “According to a report by

the National Academy of Public Administration (NAPA), leadership dedicated to stakeholder involvement is a critical characteristic of high-performing partnerships, second only to achieving results.”¹⁰⁸

Coupled with stakeholder involvement and critical to any leadership transaction is communication. As in any transaction, “it is a sound structural principle to have the fewest layers (or flatten out the organization) as possible because information theory tells us that every relay doubles the noise and cuts the message in half. Also, change leadership requires the willingness and ability to change what is already being done just as much as to do new and different things. It requires policies to make the present create the future.”¹⁰⁹ And as Dr. Peter Drucker continues to point out, we must be able to separate confusing motion for action and understand there is a need for shared experience in the decisions. Otherwise, there is no common understanding or communications. The result of which is failure to accept the decisions or carry them out. There has to be an “us” for any communication or action to succeed, however, it’s the “us” part that’s not always present in homeland security efforts.

“Key to the nature of leadership needed for regionalization is that the behavior of the system is determined by its agent’s interaction at the local level and this is the reason why the control of the crisis response system has to be distributed among its agents. All parts contribute evenly in a crisis situation, perhaps attempting diverse local interventions which will depend on four crisis response constraints: crisis characteristics, local conditions, available resources and prior crisis response experience.”¹¹⁰

As demonstrated in the Hurricane Katrina response, “The homeland security system lacks a set of established institutional relationships and shared experiences that come from participants managing together across intergovernmental boundaries.”¹¹¹

¹⁰⁸ National Academy of Public Administration, *Powering the Future: High Performance Partnerships* (Washington, D.C.: NAPA, April 2003).

¹⁰⁹ Peter Drucker, *Management Challenges for the 21st Century* (New York, N.Y.: Harper Collins, 1999), 13, 74, 86.

¹¹⁰ Alexandros Paraskevas, *Crisis Response Systems through a Complexity Science Lens* www.liv.ac.uk/ccr/2005_conf/subject_areas/mngt_files/papers/CrisisResponseSystemsEtc.pdf (Accessed on March 6, 2006).

¹¹¹ *Advancing the Management of Homeland Security: Managing Intergovernmental Relations for Homeland Security*, 6.

At the grassroots level, the biggest challenge will be maintaining the momentum needed to move forward with the action plan toward regional disaster resilience. Local governments and other organizations will need to take a leadership role in implementing the action plan activities and make a vigorous effort to retain and expand stakeholder interest and involvement.”¹¹² This necessity may directly conflict with the DHS mentality as described below.

B. NATURE OF LEADERSHIP

One of the obvious weaknesses in the Department of Homeland Security regionalization concept is the inability to guarantee that leaders will step forward for the task, or if they do, that they be competent or recognized as the leader by the other agencies. This is a vital necessity in any emergency because of the nexus between trust and reaction.

Hurricane Katrina offered conclusive evidence that if leadership is missing it will be very obvious to everyone. During this major incident, DHS was inflexible, slow to change to the unfolding conditions on the ground and when the chain of command was interrupted, the Coast Guard was the only agency that was able to maintain a command presence in the area. “Federal authority – whether presidential, congressional, or departmental –to implement a top-down command and control system does not exist for homeland security because that system is intentionally fragmented and decentralized. Nonetheless, there continues to be tension between the necessity for command and control, and the goal of shared decision-making.”¹¹³ This reality became very obvious during Hurricane Katrina. Could it have been a clear sign of the influence of former Department of Defense personnel? DHS still does not understand, or seem to accept, the need to share decision-making with all elements of the homeland security network.

To further complicate matters, the first responders of the world seldom use collaboration as the guiding value for operations. Emergency organizations are being asked to exit their silos, but it is a slow process and one based more on the needs of an emergency, rather than a natural state of affairs. Even in emergency operations

¹¹² The Infrastructure Security Partnership, *Special Report – Guide for an Action Plan to Develop Regional Disaster Resilience* (Reston, VA: Task Force for Regional Disaster Resilience, February 15, 2006), 8.

¹¹³ NAPA, *Advancing the Management of Homeland Security*, 12.

collaboration can run into egos. Research shows “three common problems occurring in the middle of disaster response include: a conflict over responsibility regarding new tasks; clashes over organizational domains between established and emergent groups; and the surfacing of organizational jurisdictional differences.”¹¹⁴ These three problems pretty much capture the basis for the resistance to regionalization and present a sound reason for the need for exceptional regional leadership to overcome these barriers.

C. HOW DOES LEADERSHIP WORK IN THE DHS MODEL

Research on the subject of regional collaboration suggests that “when regional organizations are structured so that they include a wide range of stakeholders and promote collaborative decision making, they can advance regional coordination by creating a forum for those stakeholders to build rapport, solve problems regarding issues of mutual concern, and engage in information and resource sharing.”¹¹⁵

An excellent example of this fact is the Capitol Region Council of Governments located in Hartford, Connecticut. The council established the Capitol Region Emergency Planning Committee (CREPC) in the immediate aftermath of September 11, 2001, and had measurable success in forming a collaborative effort of over 125 agencies in a forty (40) municipality region of the state. CREPC worked for two years without any federal grant assistance forming the governance, policy options, operational capability and interagency collaboration needed to exemplify a true regional effort. This initial period of self awareness and dependence on regional neighbors provided a bonding experience for local leaders of all disciplines, showed the value of collaboration and sparked a “can do” atmosphere. 9/11 vividly brought home the fact that few metro areas have the ability to respond as New York City did and it was up to the region to create that type of response capability. The CREPC saw the need for regionalization a full two years before it became DHS policy because the 72 hour response gap of the federal government was a documented FEMA fact.

Little noticed outside the State of Connecticut, the Capitol Region Council of Governments has evolved and matured to the point of managing and administering over

¹¹⁴ E. L. Quarantelli, *Research-based Criteria for Evaluating Disaster Planning and Managing* www.udel.edu/DRC/preliminary/246.pdf (accessed on February 21, 2006).

¹¹⁵ *Homeland Security: Effective Regional Coordination Can Enhance Emergency Preparedness*, 11.

\$11 million in homeland security funding in FY04 and FY05. This figure represents approximately 20% of all the homeland security funding received in Connecticut over that two-year period.

The CREPC effectiveness is built on a set of values that include equality for all agencies, recognition of need, sharing a broader view of our world, a pledge to be prepared and a willingness to share resources for the common good of all citizens.

Another illustration would be the Dallas-Fort Worth Regional Emergency Managers Group, which serves as the forum for that region's emergency preparedness officials.

D. LEADERSHIP WEAKNESSES

Regional leadership will not just suddenly appear. In many cases the legislative and cultural restrictions take a dramatic and emotional stand against accomplishing this objective. Certainly the promised grant funding will cause all the key players to listen and consider the regionalization effort. Unfortunately, some of the same key players will only pretend to endorse the intrastate concept of regionalization. However, absent the federal dollars, the real test will be whether the concept of regionalization survives. So the important question is what happens when the funding stream ends or requires a matching percentage from the local governments to receive federal funds? "Where regional collaboration is encouraged by the leadership and political traditions of state, regional, and local entities, flexibility for regional organizations to establish their membership requirements and collaborative processes is important."¹¹⁶ In other words, if local political efforts are based on mutual understanding of the regional needs, it will build the commitment and value of regionalization. Mandating compliance as an operational method will not work to any high degree of success.

Regionalization on an intrastate basis, while not new, will require a change in organizational theory by local leaders. "In most cases, few mechanisms exist to encourage regional communication and cooperation among civic, government, and business leaders. Consequently, there is a lack of trust among local governments, between governments at the local and state level, and among the public sector, the private

¹¹⁶ *Homeland Security: Effective Regional Coordination Can Enhance Emergency Preparedness*, 4.

sector, and citizens groups. Other sources of potential leadership are lost when business leaders are hesitant to lead large-scale regional initiatives, or if public officials are unwilling to support regional approaches.”¹¹⁷ Mechanisms and trust must be cooperatively developed to provide leaders the platform to act.

Another change forced by homeland security efforts is that collaborative leaders will need to combine on how to make their agencies fold into a much larger response organization based on the concept of unified command. “Successful leadership will come from the strength of those individuals who seek a common goal. The challenges that face us will necessitate a pooling of resources, and it is unlikely that one individual will be able to produce all of the resources required for effective leadership of the whole. Although a central leader will still be present in many situations, ideas will be shared, power will be dispersed, and leadership will become more collective through networks and consensus.”¹¹⁸

E. MIXED SIGNALS

Also complicating the quest for enhanced regionalization is the nature of the current governmental relationships. “Department of Homeland Security policy and the bureaucratic nature of state governments both add to the mixed signals involved in establishing regionalization across the country. Top-down planning processes must be redesigned to allow for more bottoms-up, locally based innovation and experimentation. In a diverse and rapidly changing state, a one-size- fits-all approach will not work.”¹¹⁹

Fundamentally, homeland security is a shared responsibility at all levels of government. There must be a balanced, collaborative and inclusive approach to increase the value of the effort and for success. When compliance is perfunctory, there will be no real life in the effort and hence questionable results in a crisis.

Understandably different approaches to effective regionalization will need to be pursued. Some models require immediate action, like New York City or the National Capitol Region, while others can proceed more deliberately. For example, “Arizona

¹¹⁷ *Building Florida's Future*, 21.

¹¹⁸ “The Future of Governance in the United States: 1992-2002,” *The Annals of the American Academy of Political and Social Science* (1992): 72.

¹¹⁹ *Building Florida's Future*, 7.

conducted an efficiency organizational study to design and stand up regional organizations.”¹²⁰ Other states simply let nature take its course, leading to a number of military and law enforcement dominated efforts across the nation.

The diverse approaches while politically natural have an impact. “Intergovernmental relations structures seem to create inefficiencies and dysfunction, which now prove especially difficult for the Department of Homeland Security, because so many new and existing functions must be merged and managed. Some states have created homeland security “czars” who report directly to their governors, while others have placed this function under law enforcement or emergency management, some distance from the chief executive.”¹²¹

Federal efforts to force regionalization through the Urban Area Security Initiative (UASI) program has produced documented success, but still it did not resolve the issue of progressive leadership where it did not already exist. Also, the sheer amount of dollars devoted to the UASI program garnered leadership attention in the beginning. When the designated UASI areas begin to change, the result was an anger that drove leadership efforts to regain funding.

But even in the UASI program, the General Accountability Office found that “in some locations, there were power imbalances, as well as political traditions and histories of competition that challenged regional coordination. Such challenges, for example, have been manifested by one or two jurisdictions making decisions about how federal dollars would be spent and how much funding other jurisdictions would receive.”¹²² These results tend to indicate the more common leadership with an agenda rather than leadership for the common goal of regionalization and efficiency.

F. THE POLITICS OF IT ALL

Calling it local autonomy, parochialism or silo mentality only lends a description to historical context. In reality, local government values and culture resist being forced to do anything they didn’t really want to do. The federal viewpoint is that “in cases where

¹²⁰ Janet Napolitano, *Arizona 2004 Homeland Security Strategy* (Phoenix, AZ.: Arizona Office of Homeland Security, 2004), 11.

¹²¹ *Advancing the Management of Homeland Security*, 9.

¹²² *Homeland Security: Effective Regional Coordination Can Enhance Emergency Preparedness*, 20.

state and local traditions do not engender inter-jurisdictional collaboration, more prescriptive requirements regarding regional group members, decision-making processes, and planning can establish minimum thresholds for those activities and may provide an incentive for regional collaboration.”¹²³ These thoughts contained in an official congressional report in September 2004 seem to lack a thoughtful insight into political relationships at the local level and hinges on wishful thanking at the federal level.

“Regions have hundreds of public, private, nonprofit, civic, educational, and other groups, all with interests in, bearing on, and potential for meaningfully participating in the tasks of governance.”¹²⁴ All agencies must have collaborative participation and real involvement in the strategy and regulatory processes that exist for success to be achieved. Additionally, it certainly does not go unnoticed at the local level how dysfunctional DHS appears to be. Hurricane Katrina showed deep management and leadership problems within DHS and even with the reorganization continues to show large cracks in response and credibility. “The Department of Homeland Security wants state and local officials to partner, yet federal staff serving in the same states and cities often do not know one another or work well together.”¹²⁵ The recent congressional restructuring of the Federal Emergency Management Agency (FEMA) into a new look agency is another example of the federal turmoil. If DHS is supposed to lead by example, they may discover a shortage of followers at the state and local government level.

Many regions have used different self-motivators to establish their brand of regionalization. Hampton Roads, Virginia municipalities were fostered by the efforts of the Metropolitan Medical Response System (MMRS) across city boundaries. In the Georgia coastal area leaders used the FEMA Project Impact Program as the driving force for regionalization.

These are positive illustrations and point out that “a regional vision will not be implemented unless it taps into the political energy that originates in a strong sense of

¹²³ *Homeland Security: Effective Regional Coordination Can Enhance Emergency Preparedness*, 4.

¹²⁴ Foster, *Smart Governance, Smart Growth*, 3.

¹²⁵ *Advancing the Management of Homeland Security*, 7.

shared values and priorities.”¹²⁶ Consideration must be given to the political risk involved in regionalization efforts. From a personal standpoint many local officials have been burned and buried by consolidation. Regionalization by definition brings back many bad memories. Once again, voluntary or self-motivated regionalization initiatives have worked best because the commitment is there. In this case, “decision makers involved in the process have gained confidence and trust in the intentions and abilities of potential partners, based on past experience, so their individual political risk was reduced.”¹²⁷

Politics also allow consideration for the naysayers of the world. Regionalization just doesn’t set well with some first responders regardless of the intent. For example, one emergency management official wanted it made very clear to his constituents when he wrote in the organizational news letter that “To counter some rumors you may have heard, the Iowa Emergency Managers Association (IEMA), did not ask for regionalization of Homeland Security, and is not driving it. The majority of IEMA members were not in favor of creating six such large regions in the state.”¹²⁸

Conversely, there is hope for a few converts. Another law enforcement official writes that “shortly after being inducted as your President, on behalf of the Association, I got directly involved in the lengthy and sometimes difficult discussions on regionalization of homeland security funding. While I still have some concerns about implementation of the plan, Michigan appears to be on a good path of regional planning for critical incidents of major proportion.”¹²⁹

Comments like these and many others are repeated daily across the nation as officials sort through the repercussions of regionalization and determine the degree of acceptance it will get. One can only surmise what might have been the outcome of

¹²⁶ Suzanne D. Cartwright, *Translating a Regional Vision into Action* (Washington, D.C.: Urban Land Institute Land Use Policy Forum, March 8, 2005), 5.

¹²⁷ Kelly Tiller and William M Park, *An Institutional Perspective on Regional Cooperation in Municipal Solid Waste Management* (Knoxville, TN.: Agricultural Policy Analysis Center, University of Tennessee, April 17, 1997), 11.

¹²⁸ Terry Hummel, “FY2005 State Homeland Security Grant Program (SHSGP),” *Facilitator 2*, No. 2 (Des Moines, IA.: Iowa Emergency Managers Association, December 2004), 4.

¹²⁹ Ervin L. Portis, “President’s Message,” *Michigan Association of Chiefs of Police Web Site*. (Accessed at www.michiganpolicechiefs.org/ on June 24, 2006).

Hurricane Katrina had a true intrastate regionalization process been in place. Gulf Coast leaders may say otherwise, but intrastate regional support was not evident during the disaster and was officially noted.

G. CONCLUSION

In summary, regional intrastate leadership might have been expected by DHS and even anticipated. But for the most part, the planned leadership has not been uniformly established across the country. Money, politics and government bureaucracy have provided the real drive for the national status in homeland security. Understanding stakeholder involvement, network theory for organizations, and shared decision-making have not been as abundant. In the introduction, the questions were asked about what secret binds us to a sense of community, and what phenomenon caused total strangers on Flight 93 to coalesce? The answer is it's something that always needed for action to occur and when missing it demands our immediate attention. That secret is leadership – the ultimate success factor for homeland security.

VIII. RECOMMENDATIONS

The primary hypothesis as stated in Chapter I was that there is a mismatch between the federal government's expectations of regionalization and the understanding of it by state and local governments. It is further anticipated that this lack of understanding will negatively impact the expenditure of federal funds in the future. The writer contends that there are six major reasons the Department of Homeland Security (DHS) initiative may fail. Those reasons include a lack of definition for regionalization; the impact of federalism; the influence of risk-based funding on local interest in regionalization; the impact of home rule and local autonomy; risk and liability questions; and the lack of leadership.

With high priority issues such as risk-based funding, recovery from Hurricane Katrina and congressional activity to resolve the Federal Emergency Management Agency (FEMA) question, it is highly unlikely that any DHS attention is being given to this potential failure or that it is even remotely considered as a problem. With the exception of the Urban Area Security Initiative (UASI) program, which provides some insight into the dangers associated with regionalization, there may be no reason to suspect there is a problem brewing. The potential failure of regionalization is a different type of problem because there will not be a battle over policy or funds. There probably will not be any colossal firing of DHS officials or media feeding frenzy. Just the sober realization that after spending billions in tax dollars, a key tenet of the homeland security overall goals is dysfunctional. This type of problem is usually replaced with a new initiative cleverly designed to cover the failed policy.

Will regionalization be the subject of a future congressional Research Study or think tank analysis telling us that Congress should either kill the program or correct the problem? The federal government has already documented in the House Committee on Government Reform Report (2004) titled *Homeland Security: Effective Regional Coordination Can Enhance Emergency Preparedness* that the American governance system, divided into federal, state and local jurisdictions, does not provide a natural vehicle for discussing public issues from a regional perspective. Other factors such as a

top-down command mentality by the federal and state governments, waning interest by local governments and a lack of guaranteed leadership will further complicate the regionalization initiative.

Are there any flexible robust alternatives to enhance regional collaboration? Based on the research, the author suggests three options for consideration. Option one maintains the status quo. Option two offers the idea of federal guidance and control through the form of a “Regional Homeland Security Service Agency” that would increase the probability of successful regionalization. Option three offers the idea that guidance and control should come from the bottom up, through a Regional Council of Government, or “RCG approach.” This option significantly enhances the probability of success, because it utilizes municipal relationships and leadership that is already tested and proven.

The remainder of this chapter will be devoted to explaining the options. The options will be evaluated based on command and control methods, degree of inclusiveness, definition and structure, conflict with home rule and local autonomy, participant resistance to the program and degree of collaborative leadership involved. Some evaluation factors, such as impact on risk and liability and financial controls/audit procedures, present the same result regardless of the option selected and therefore will not be used in the analysis.

Finally the writer will make a recommendation as to which option appears to offer the most promise of regional success.

A. OPTION ONE — MAINTAIN THE SAME PROGRAM (TAKE NO ACTION)

This is the easiest option to choose, but it fails to answer the many questions described in this thesis.

An analysis of the evaluation factors for option one is described below:

- **Command and control** – Top down federal application
- **Degree of inclusiveness** – Mostly non-inclusive relying on state review of policy
- **Definition and structure** – Both factors left to the discretion of the state

- **Conflict with home rule and local autonomy** – Ignores the home rule concept and offers some recognition of local autonomy
- **Perceived participant resistance** – High based on risk-based funding, lack of inclusive input and the top-down federal command and control
- **Leadership effectiveness** – Ignores this factor and plays no role in guaranteeing leader competence or support

Maintaining this option would continue the somewhat ambiguous direction already established by DHS. The highlights of this option are the continuing lack of a clear definition of regionalization and a lack of guidance except for funding and expenditure procedures.

As predicted by this thesis, the most likely outcome will be a continuous shrinking of the funds in future years and a corresponding decrease in interest from local governments. Basically homeland security funding has not been flowing long enough to build any institutional loyalty at the state or local government level.

In addition, there will be a continued lack of political awareness that a problem may exist. The overarching goal of enhanced regionalization will not gain any real traction because Congress is sidetracked by the question of FEMA like regions for DHS on the federal level. The current system of dealing with 50 state administrative agents and 35 UASI regions supports the cover story for regionalization and maintains control at the federal and state levels, but conversely offers spotty evidence of local government buy-in.

While the current system builds on the state's power, there is no evidence if federal funding stops the states would pick up the costs of homeland security within their respective state. This predicament is further compounded by command questions, state laws that block definitive regionalization efforts and the potentially explosive belief that local governments are willing to relinquish control.

B. OPTION TWO — AN INTRASTATE REGIONAL PROGRAM BASED ON FEDERAL GUIDANCE — *THE REGIONAL HOMELAND SECURITY SERVICE AGENCY*

In option two, the writer recommends the establishment of the Department of Homeland Security *Regional Service Agency*. This option proposes that the federal government set up intrastate regional offices in the 35 UASI regions as well as the other

approximately 370 state designated regions in the nation. Under this option each of the approximately 400 regions would receive direct guidance and control from the DHS.

This option very loosely resembles the current system used for the 35 (actually 46 counting transition locations) Urban Area Security Initiative (UASI) sites. The federal government considers the UASI regions as direct customers for operational purposes. Administrative grant requirements would be still handled by the State Administrative Agent. This option is fashioned after the Department of Agriculture Farm Service Agency, which has multiple office locations in every state generally based on county level operations.

The Farm Service Agency handles five major programs at the local level. Those programs involve farm loans, price support, commodities, conservation and disaster assistance. In a similar fashion the proposed *Regional Homeland Security Service Agency* would handle programs such as prevention, preparedness, response, recovery, training and exercises, and grants administration. Under this option, the federal representative becomes an integral part of the region, is known to all local agencies and provides a mechanism for collaborative inclusive interaction by all players at all levels. The state becomes a customer in the system just like regions. The power relationship changes to one of partnership instead of vertical command and control.

An analysis of the evaluation factors for option two is described below:

- **Command and control** – Changes to direct federal participation with state and local involvement
- **Degree of inclusiveness** – Offers high degree of direct input into policy
- **Definition and structure** – Clearly defines the region and the service agency structure provides evidence of the federal commitment to enhanced regionalization.
- **Conflict with home rule and local autonomy** – Potential to increase conflict over home rule due to state's reduced influence and at the same time increase local autonomy due to less state influence in grant application
- **Perceived participant resistance** – Lessened due to direct access to federal representative and increased information sharing

- **Degree of collaborative leadership** – Offers a higher degree of collaborative federal involvement and identification of individual regional leaders

Option two, the *Regional Homeland Security Service Agency* increases clarity and further defines regionalization. It offers a positive affect on the level of interest by all governmental players. It also offers direct and inclusive opportunities for grant funding decisions and puts a face on the federal government at the regional and local level. This system offers a high degree of service delivery and increases political awareness of the regionalization issues.

Conversely, this option would be subject to attack from state's rights advocates and fiscally conservative parties. As with option one, federal funding continues to decrease, however the most likely future outcome is a continuing degree of success. This would be primarily due to the commitment at the regional and local level, the federal presence, and sense of collaboration.

C. OPTION THREE — AN INTRASTATE REGIONAL PROGRAM BASED ON COUNCIL OF GOVERNMENTS FACILITATION — *THE REGIONAL COUNCIL OF GOVERNMENTS (RCG) APPROACH*

In option three, the writer recommends the utilization of the national system of regional council of governments that already exists. “The nation’s network of 520 regional development organizations and regional councils of government provide forums for local elected officials and other key community stakeholders to explore and address issues of regional significance. As organizations formed and governed primarily by local officials, these regional organizations have credibility with local governments, years of experience in coordinating local efforts across political boundaries and the capacity to provide regional forums for dialogue, coordination and strategic planning.”¹³⁰

Regional development organizations are uniquely positioned and qualified to coordinate, plan and implement essential homeland security efforts. These activities range from coordinating the integration of first responder communication systems, to managing the GIS data and tools necessary to enhance local decision making, to developing comprehensive response plans, to conducting regional forums.¹³¹

¹³⁰ NADO, *Regional Approaches to Homeland Security Planning and Preparedness*, 1.

¹³¹ *Ibid.*, 2.

An analysis of the evaluation factors for option three is described below:

- **Command and control** – Bottoms up originating at the regional level and operating both vertically and horizontally
- **Degree of inclusiveness** – Offers highest degree of inclusiveness
- **Definition and structure** – Region is defined by natural community of interest and the structure is clearly defined by state statutes
- **Conflict with home rule and local autonomy** – The RCG approach offers no conflict with home rule and since the Council of Governments are controlled by local governments, there would be little threat to local autonomy
- **Perceived participant resistance** – The option offers the least chance of participant resistance because it is controlled by the local governments
- **Degree of collaborative leadership** – The RCG approach offers the highest degree of collaborative leadership because regional leaderships are a major function of a Council of Governments and the collaborative inclusive atmosphere required for success already exists.

Option three, *The RCG Approach*, provides a high degree of clarity and comes with a built in definition of regionalization based on political buy-in by the participants. It offers an efficient and cost effective method of building off the strengths of existing relationships. The motivation for collaboration and quality service delivery are inherent in the regional council of governments system. This option offers the highest degree of political awareness plus allowing Congress to have a buffer against the certain political complaints to follow.

The most likely outcome from establishing option three would be success based on strong relationships forged through experience and knowledge of strengths and weaknesses in the system. Also, the state would be more inclined to support option three as it does little to undermine their authority to act. Additionally, it preserves the traditional power of the state and their ability to lead through the state statutes.

The federal government can provide support for regional coordination. In particular, through its grant design and requirements, the government encourages structures and practices associated with effective regional efforts. Requiring a grantee to establish a regional organization before receiving funds, allowing organizations to

establish themselves based on their regional environment, requiring a strategic plan and targeting funding for collaborative regional groups are ways to enhance the regionalization goal.¹³²

Option three offers some other advantages. The change to risk-based funding is not likely to severely impact on option three because the regions already exist and will continue to function even if the grant funding is reduced.

D. CONCLUSIONS

As stated in Chapter I, a policy adjustment by the federal government is necessary to increase the chances of success for regionalization. Without it, regionalization as a workable concept faces a vague shallow outcome, referenced only by state administrative agents to keep the funds flowing. While cited on paper and described in plans, regionalization will not exist operationally or in the minds of local government officials.

Networks play a significant role in solving the mystery of how to create a workable intrastate regionalization system. While networks per se were not the center of the research, they obviously are critical to understanding how to solve the problem. Everything we do in life connects through some type of network. Under the current ambiguous situation, networks are talked about, but undermined through federal policy that forces relationships based on functional responsibility instead of a natural community of interest.

Clarke and Beers research indicates that “since the initiation of programs to respond to terrorism in the homeland beginning in the mid-1990s, the federal government has failed to be specific about the priorities for creating new capabilities at the state and local level. There has also been a tension between state governments and their subordinate jurisdictions, cities, and counties. Both levels of local government have sought to create and manage new programs and to control the use of new federal assistance funds. Every city and town has wanted to have its own new homeland security assets and to decide what they should be. Every state has also sought to centralize

¹³² *Homeland Security: Effective Regional Coordination Can Enhance Emergency Preparedness*, 6-7.

homeland security control in the state capitol. In most states, neither of those two approaches (city-centric or state-centric) is ideal.”¹³³

Option one, maintaining the status quo, is a viable option in the sense that it’s what we have done so far and who knows what the definition of success is going to ultimately be. If the situation eventually evolves into one of the 35 major population areas (UASI) being the only real regions that DHS is concerned about, then what happens to states that don’t have UASI regions? Are they the new collateral damage areas? Marked off as the necessary loss in a much larger priority of common good for the nation?

The second option, a *Regional Homeland Security Service Agency*, creates a micromanaging perspective. While creating jobs and flying the colors, it also creates more bureaucracy. This option would appear like a drastic reaction in a conservative administration and definitely be opposed by states perceiving it as a loss of their power.

The third option, the *Regional Council of Governments (RCG) approach*, is the recommended option by the writer. It keeps the federal government out of the state’s business. It uses contractors, which appeal to the conservative base. It keeps the states happy because they control the grant funding, keeps the ultimate power at the state level and they don’t have to do the work.

Option three makes the local government happy because it’s inclusive, uses an existing power structure and is self-directed. The leadership question is answered in most cases, provides a bottom-up approach to command and control and does not base continued existence on the continuation of federal grants.

If the overarching goal really is to enhance regional collaboration, protect the entire nation, and maintain a sustainable effort, then the author would recommend option three, the “Regional Council of Government Approach.”

Regionalization of homeland security efforts in the United States can succeed if based on clear definitions, solid leadership and a system that allows input into the decision making process from the regional level.

¹³³ Clarke and Beers, *Forgotten Homeland*, 15.

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